

Anti-Harassment & Anti-Discrimination Policy

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| <i>Previously Approved Versions</i> | <i>2007, 2017, 2021</i> |
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1. Policy Statement

The Canadian Association of Midwives (CAM) is committed to creating policies and a workplace culture free from harassment, where everyone who works for and with CAM is treated with respect and dignity.

In accordance with *The Canadian Human Rights Act*, harassment and/or discrimination of any kind at CAM is not tolerated. CAM Board members, employees, consultants, and volunteers who are found to have harassed another individual may be subject to disciplinary action. CAM Board members, employees, consultants, and volunteers who are found to have been harassed by a CAM Board member, employee, consultant, or volunteer are entitled to recourse, as set out by this policy.

Where CAM policies or systems have been found discriminatory, CAM will assume responsibility for the impacts of their actions, for apology, reparations, and undertaking a consultative process for updating the affected policies or protocol. Complaints will be reviewed with consideration of the systemic factors that contribute to harassment and discrimination.

2. Purpose

Under the *Canadian Human Rights Act* every person has the right to freedom from harassment and discrimination.

The purpose of this policy is to:

- Ensure the CAM Board of Directors, employees, consultants and volunteers, members, and partners are aware that harassment and discrimination of any kind will not be tolerated at CAM,
- Define the types of behaviors that may be considered offensive and are prohibited,
- Set out a process for filing a complaint,
- Ensure CAM's response to all complaints is trauma-aware and,
- Ensure that incidents of harassment are not seen as isolated occurrences, but instead inform organizational learning, policy, and systems level changes.

3. Accountability

The CAM Board of Directors is ultimately responsible for providing an environment free of discrimination and harassment, in which all individuals are treated with respect and dignity, can contribute fully, and have equal access to opportunities. Board members also have the specific responsibility to ensure they

a1

act immediately on observations or allegations of harassment or discrimination involving CAM Board members or the Executive Director.

The Executive Director and other managers are responsible for ensuring this policy is followed by all employees, consultants, and volunteers under their supervision. The Executive Director and managers have the responsibility to act immediately on observations or allegations of harassment or discrimination involving an employee, a consultant or volunteer and should address potential problems before they become serious.

All CAM Board members, employees, consultants, and volunteers are expected to uphold and abide by this policy by refraining from any form of harassment or discrimination, and by cooperating fully in any investigation of a harassment or discrimination complaint.

All CAM Board members, employees, consultants, and volunteers can also expect a workplace free from harassment. Harassment from CAM members, members of the public, suppliers, vendors, partners, and others with whom CAM may have professional relationships is not acceptable.

4. Responsibilities

The **CAM Board of Directors** is responsible for:

- the administration of this policy.
- reviewing this policy every three (3) years, or more often as required; and
- making necessary adjustments to ensure that this policy meets the needs of the organization.

The **CAM President or Executive Director** is responsible for:

- ensuring this policy is applied in a timely, consistent, and confidential manner;
- determining whether allegations of harassment are substantiated; and
- determining what corrective action is appropriate where a harassment complaint has been substantiated.

Managers are responsible for:

- fostering a harassment-free work environment and setting an example about appropriate workplace behaviour;
- communicating the process for investigating and resolving harassment complaints made by employees, consultants, or volunteers;
- dealing with harassment situations immediately upon becoming aware of them, whether or not a harassment complaint has been made;
- taking appropriate action during a harassment investigation, including separating the parties involved in the harassment complaint, when appropriate; and
- ensuring harassment situations are dealt with in a timely, sensitive, and confidential manner.

Employees are responsible for:

- treating others with respect in the workplace;

- reporting harassment to their manager, or if their manager is implicated, CAM's Executive Director;
- cooperating with a harassment investigation and respecting the confidentiality related to the investigation process.

Individual Board members are responsible for:

- treating others with respect in the workplace;
- reporting harassment to CAM's President, or if the President is implicated, another Executive Board member;
- cooperating with a harassment investigation and respecting the confidentiality related to the investigation process.

Board Members, Managers, and Employees can expect:

- to be treated with respect in the workplace;
- that reported harassment will be dealt with in a timely, confidential, and effective manner;
- to have the right to a fair process and to confidentiality respected during a harassment investigation; and
- to be protected against retaliation for reporting harassment or cooperating with a harassment investigation.

The Health and Safety Committee is expected to:

- Identify and analyze risk factors related to harassment and discrimination in the workplace and provide recommendations for corrective actions.
- Recommend training for employees on anti-discrimination and anti-harassment matters.

5. Definitions

a. Discrimination –

Discrimination is any form of unequal treatment based on a *Canadian Human Rights Act*, either intentional or unintentional. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but have the effect of disadvantaging certain groups of people. Discrimination may take obvious forms, or it may occur in very subtle ways. In any case, even if there are many factors affecting a decision or action, if discrimination is one factor, the decision or action is a violation of this policy.

The *Canadian Human Rights Act* prohibits discrimination on the following grounds, and any combination of these grounds:

- race,
- national or ethnic origin,
- colour,

- religion,
- age,
- sex (includes pregnancy, childbirth, breastfeeding/chestfeeding),
- sexual orientation,
- gender identity or expression,
- marital status,
- family status,
- disability,
- genetic characteristics (includes genetic testing or disclosure of test results), and
- a conviction for which a pardon has been granted or a record suspended.

b. Harassment

Harassment is a form of discrimination defined as a course of comments or actions that is known or ought reasonably to be known to be unwelcome. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning, or unwelcome, based on the grounds of discrimination identified by this policy. It comprises objectionable conduct, comment, or display made on either a one time or continuous basis that demeans, belittles, or causes personal humiliation or embarrassment. Harassment is one directional, whereas conflict is bidirectional.

Harassment may take place inside or outside the workplace, and could be in person, in writing, on the telephone, including social media and text messaging. Social media related harassment is included regardless of whose electronic device is used and if it occurs outside of the workplace. It includes harassment based on any of the prohibited grounds of discrimination listed in the *Canadian Human Rights Act*.

Examples of harassment include but are not limited to:

- Epithets, remarks, jokes, or innuendos related to an individual's race, sex, disability, sexual orientation, creed, age, or any other prohibited ground.
- Display or circulation of offensive pictures, graffiti, or materials, whether in print or electronic form.
- Singling out an individual for humiliating or demeaning "teasing" or jokes because they are a member of a protected group.
- Comments ridiculing an individual because of characteristics, dress etc. that are related to a ground of discrimination.
- Virtual harassment, such as (but not limited to) sending offensive messages through social media, text message, trolling on the internet, or cyberstalking.
- Profane language and unwarranted comments or gestures that is reasonably interpreted as unwelcome, demeaning, or offensive.
- Unwarranted physical conduct that is reasonably interpreted as unwelcome, demeaning, or offensive.

- Creating an intimidating or offensive working environment.
- Creating a degrading, humiliating, or hostile work environment.
- Cyber bullying, defined as any inappropriate electronic or cyber activity used for the purpose of violence, intimidation and/or harassment.
- Microaggressions, defined as comments or actions that negatively target a marginalized group of people, either intentional or inadvertent.

For clarity, the following actions do not constitute harassment:

- Reasonable management actions that would be part of a manager's or supervisor's normal work function, such as changes in work assignments, scheduling, job assessment and evaluation, workplace inspections, implementation of health and safety measures, reference checks, and the application of progressive discipline, up to and including termination. However, if these actions are not exercised reasonably and fairly, they may constitute workplace harassment.
 - Normal process of obtaining and receiving feedback from members, the public or stakeholders on programs, operations, or services. However, how such feedback is provided may constitute harassment.
 - Differences of opinion or minor disagreements between co-workers.
 - Workplace conflict in itself does not constitute harassment but could turn into harassment if steps are not taken to resolve the conflict.
 - Work related stress in itself does not constitute harassment, but the accumulation of stress factors may increase the risk of harassment.
 - Difficult conditions of employment, professional constraints, and organizational changes.
 - A single or isolated incident such as an inappropriate remark or having an abrupt manner; however, a single, significant event could constitute harassment.
 - A social relationship welcomed by both individuals.
 - Friendly gestures among co-workers, such as a pat on the back.
- c. **Sexual Harassment** – Sexual harassment means a) engaging in a course of comment or conduct about 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 someone and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. This includes any conduct, comment, gesture, unwanted messaging of sexual nature through electronic means or contact of a sexual nature, whether on a one-time basis or in a continuous series of incidents, that might reasonably be expected to cause offence or humiliation; or might reasonably be perceived as placing a condition of a sexual nature on employment or on an opportunity for training or promotion.

Generally, sexual harassment is deliberate, unsolicited, coercive and one sided. Board members, employees, consultants, or volunteers of any gender can be the victim or the perpetrator.

Examples of sexual harassment include but are not limited to:

- Gender-related comments about an individual's physical characteristics or mannerisms.
- Paternalism based on gender which a person feels undermines their self-respect or position of responsibility.
- Unwelcome physical contact.
- Suggestive or offensive remarks or innuendoes.
- Unwelcome propositions of physical intimacy.
- Gender-related verbal abuse, threats, or taunting.
- Leering or inappropriate staring.
- Bragging about sexual prowess or questions or discussions about sexual activities.
- Offensive jokes or comments of a sexual nature about an employee or member.
- Rough and vulgar humour or language related to gender.
- Display of sexually offensive pictures, graffiti, or other materials, including through electronic means.
- Demands for sexual favours.
- Unwanted messaging of a sexual nature through electronic means.
- Verbal or physical conduct of a sexual nature.
- Soliciting sexual favours in exchange for a benefit.
- Unwelcome physical contact, such as massages.
- Asking for dates or personal contact when the person has already indicated they are not interested.

d. Abuse of Authority – Abuse of authority is a form of harassment that occurs when an individual improperly uses the power and authority inherent in their position to endanger an employee's job, undermine the performance of that job, threaten the economic livelihood of the employee, or in any way interfere with or influence the career of the employee. Abuse of authority includes intimidation, threats, blackmail, and coercion.

e. Appropriate Authority – This person is responsible for overseeing the proper implementation, administration, and enforcement of this policy. At CAM, the Appropriate Authority is the Executive Director for all employees, consultants and volunteers, the CAM President for the Board of Directors, and the Executive Director, the NACM co-Chairs for issues related to NACM work, an Executive member for matters pertaining to the CAM President.

f. Complainant – A person who reports having witnessed or experienced discrimination or harassment.

g. Respondent – An individual who is alleged to have exhibited conduct that is the subject of a

a6

complaint.

h. Workplace – for the purposes of this policy, harassment can occur in the following places:

- at the physical or virtual workspace;
- at CAM related travel, sponsored events, conferences, and training sessions;
- at CAM social functions;
- through any form of communication device/system including but not limited to telephone, email, fax, postal service, social media;
- any formal or informal location where the harassment of a person is a result of their CAM related involvements.

6. Prohibited Behaviours

- a. Sexual Solicitation:** This policy prohibits sexual solicitations or advances by any person who is in a position to grant or deny a benefit to the recipient of the solicitation or advance. This includes managers, as well as co-workers where one person is in a position to grant or deny a benefit to the other. Reprisals for rejecting such advances or solicitations are also prohibited.
- b. Poisoned Environment:** Created by policies, comments, or conduct (including comments or conduct that are condoned or allowed to continue when brought to the attention of management) that create a discriminatory work environment. The comments or conduct need not be directed at a specific individual, and may be from any individual, regardless of position or status. A single comment or action, if sufficiently serious, may create a poisoned environment.

The fact that a person does not explicitly object to harassing behaviour or appears to be going along with it does not mean that the behaviour is not harassing and does not mean that it has been assented to.

Anyone found to create or contribute to a poisoned environment may be subject to a harassment complaint and possible disciplinary measures, up to and including termination.

7. Procedures for Filing and Addressing a Harassment Complaint

The provisions of this policy in no way affect the right of any person to exercise their rights under the *Canadian Human Rights Act*, within the time limits specified by that legislation.

a. Filing a Complaint

CAM Board members, employees, consultants, volunteers, or any other person representing CAM in an official capacity are expected to report any suspicions of harassment or discrimination.

A complaint or concern raised by CAM employees, consultants or volunteers can be directed to their immediate manager, or if their manager is implicated, CAM's Executive Director, verbally, or in writing to director@canadianmidwives.org. Additionally, a complaint or concern may be sent directly to CAM's President at president@canadianmidwives.org, particularly if the Executive Director is implicated.

A complaint or concern raised by a member of CAM's Board of Directors can be brought directly to CAM's President, or in the case where the President is implicated, another Executive member.

Employees from partner and donor organizations may report a complaint or concern in the same manner to director@canadianmidwives.org.

The Appropriate Authority must be informed of complaints within three (3) working days of the complaint being brought forward formally. All reports resulting in injury must be immediately reported. The complainant should be prepared to provide details such as what happened; when it happened; where it happened; how often and who else was present (if applicable). Complaints should be made as soon as possible of perceived harassment, unless there are circumstances that prevented the complainant from doing so.

When the complaint or the concern is raised in writing, the complainant is encouraged to highlight the email as important, urgent, and highly confidential.

b. Procedure for Handling Complaints or Concerns

Confidentiality will be maintained throughout the process. Individuals who breach confidentiality will be subject to disciplinary action up to and including termination.

- When a complaint or concern is raised, an e-mail will be sent to the complainant acknowledging receipt as soon as possible. The Appropriate Authority will contact the respondent to inform them that a harassment complaint has been made against them, in writing, and will also provide details of the allegations that have been made.
- Within three (3) working days of receiving a complaint, the Appropriate Authority will convene a case conference with CAM's management team or CAM's Executive (excluding any party involved in the complaint) to determine the best course of action, including the possibility of mediation, an investigation, or the possibility of reporting the incident to the relevant authorities. If someone's life is in danger, there may be a duty to report to the relevant authorities by CAM's Executive Director, irrespective of the wishes of the complainant.
- At times, immediate termination may be warranted in this process, as in the case of, but not limited to interference with the resolution of a harassment complaint; retaliation against an individual for filing a harassment complaint; or the filing of an unfounded harassment complaint intended to cause harm.

i. Internal Resolution

Wherever appropriate and possible, the parties to the harassment complaint will be supported to come to a resolution without involving external resources. This may be in the form of a genuine apology or reorganization of work teams in lieu of external mediation, or other resolution as identified by the Appropriate Authority. If a satisfactory internal resolution cannot be found, the parties involved in the harassment complaint will be offered mediation.

ii. Mediation

Wherever appropriate and possible, the parties to the harassment complaint will be offered mediation prior to proceeding with a harassment investigation. Mediation is voluntary and confidential. It is intended to assist the parties to arrive at a mutually acceptable resolution to the harassment complaint. The mediator will be a neutral person, agreed upon by both parties, and may be internal or external to the organization. The mediator will not be involved in investigating the complaint. Each party to the complaint has the right to be accompanied and assisted during mediation sessions by a person of their choosing.

iii. Investigation

If mediation is inappropriate or does not resolve the issue, a harassment investigation will be conducted. All investigations will be handled by an individual who has the necessary training and experience as determined by the Appropriate Authority. In some cases, an external consultant may be engaged for this purpose. The investigator will interview the complainant, the respondent, and any witnesses that have been identified. All people who are interviewed will have the right to review their statement, as recorded by the investigator, to ensure its accuracy.

The investigator will prepare a report that will include:

- a description of the allegations;
- the response of the respondent;
- a summary of information learned from witnesses (if applicable); and
- a decision about whether, on a balance of probabilities, harassment did occur.

This report will be submitted to the Appropriate Authority. Both parties to the complaint will be given a copy.

c. Substantiated Complaint

If a harassment complaint is substantiated, the Appropriate Authority or CAM's legal counsel as required, will decide what action is appropriate. Remedies for the complainant may include: an oral or written apology, mediation, compensation for lost wages; compensation for any lost employment benefits such as sick leave; and compensation for hurt feelings.

Corrective action for the respondent may include education, training, a reprimand, a suspension, or probation (paid or unpaid), a transfer, a demotion, or dismissal. Both parties to the complaint will be

advised, in writing, of the decision.

d. Unsubstantiated Complaint

No hardship, loss, benefit, or penalty will be brought on an individual in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Lodging a genuine complaint will in no way be used against the individual or have an adverse impact on employment status. However, filing groundless or malicious complaints is an abuse of CAM's policy and will be treated as such.

If the complainant has been found to have submitted a groundless or malicious complaint intentionally, the individual may be subject to disciplinary measures including grounds for termination of employment or the relationship with CAM.

e. Other Redress

A complainant who is not satisfied with the outcome of the harassment complaint process may file a discrimination complaint with the *Canadian Human Rights Commission*.

8. Counsel

Complainants and respondents are entitled to seek representation of their choice, including legal counsel, during the complaints process, at their own expense.

9. Confidentiality

It can be extremely difficult to come forward with a complaint of harassment and it can be difficult to be wrongly accused of harassment. CAM recognizes the interests of both the complainant and the respondent in keeping the matter confidential. CAM also recognizes that conflict between individuals may be indicative of organization-wide attitudes. Themes from complaints will be identified and addressed publicly while protecting the privacy for complainant and accused.

CAM and its representatives shall not disclose to outside parties the name of the complainant, the circumstances giving rise to a complaint, or the name of the respondent unless such disclosure is required by a disciplinary or other remedial process or where required to disclose by statute. Breach of confidentiality will lead to disciplinary measures, including grounds for termination of employment or relationship with CAM.

All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material will be kept confidential by CAM except where disclosure is required by a disciplinary or other remedial process or where required to disclose by statute.

In all reported instances, a prompt, thorough, fair investigation will take place giving careful consideration

a10

to protect the rights and dignity of all people involved. Advisors, investigators, mediators, and persons receiving complaints will, to the extent possible, protect the confidentiality and privacy of persons involved in a complaint, subject to the requirements of a fair investigation and resolution process.

10. Reprisal

Under the *Canadian Human Rights Act*, person(s) who make a complaint, as well as anyone else who is involved in the complaint resolution process, will not be penalized or disciplined for their participation in the complaint process.

Reprisal may be the subject of a complaint under this policy, and persons engaging in reprisal are subject to disciplinary measures, up to and including termination of employment or relationship with CAM.

11. Associated Documentation

This policy is based upon the following pieces of legislation and policies:

- Canadian Human Rights Act
- Loi Modernisant le Régime de Santé et de Sécurité du Travail (LMRSST)
- CAM's Protection from Sexual Exploitation and Abuse Policy