



Exhibition Place

Item No. 11

August 16, 2013

ACTION REQUIRED

To: The Board of Governors of Exhibition Place

From: Dianne Young
Chief Executive Officer

Subject: **Human Rights & Anti-Harassment
/Discrimination Policy for Board Employees**

Summary:

As an agency of the City of Toronto, the Board is required to follow directions of City Council; hence this report recommends that the Board approve a Human Rights and Anti-Harassment/Discrimination Policy for Board Employees.

Recommendations:

It is recommended that the Board delete the existing “Workplace Harassment” Policy and approve a new Human Rights and Anti-Harassment/Discrimination Policy for Board Employees, as outlined in the attached Appendix “A”.

Financial Implications:

There are no financial implications arising from the recommendation in this report.

Decision History:

The Exhibition Place 2009 – 2012 Strategic Plan had an Organizational and Staffing Goal to *Review and revise our corporate systems* and as a Strategy to support this Goal *we will complete an annual review of By-Laws, Policies and Procedures of the Board of Governors.*

At its meeting of July 16, 2013, City Council approved a report from the City Manager entitled “Human Rights and Anti-Harassment/Discrimination Policy”, and requested that City agencies and corporations review and amend their Human Rights and Anti-Harassment/Discrimination Policy to reflect the purpose and principles of the City’s Policies as appropriate to their organization, and/or adopt such policies.

Issue Background:

As a result of the above direction from City Council, attached is a proposed Human Rights and Anti-Harassment/ Discrimination Policy for Board employees.

Comments:

Following Board approval, this policy will be submitted to the City Manager advising that the direction of City Council has been complied with.

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Submitted by:

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DATE OF ISSUANCE		
September	6	2013

SUPERCEDES POLICY DATED		
November	5	2010

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The Board of Governors of Exhibition Place (the Board) is an agency of the City of Toronto and on behalf of the City manages the Exhibition Place grounds and all buildings and infrastructure on the grounds. Exhibition Place is made up of three functional programs: Direct Energy Centre; Exhibition Place and Allstream Centre.

1.0 Policy Statement:

Under the *Ontario Human Rights Code*, every person has a right to equal treatment in the provision of services and facilities, occupation of accommodation, contracts and in employment. Under the *Occupational Health and Safety Act*, all employers are required to have a policy, program, information and instruction regarding workplace harassment.

The Board is committed to respectful, equitable service delivery and employment practices. The goal of this Policy is to recognize the dignity and worth of every person (service recipient or employee) and to create a climate of understanding and mutual respect

The Board condemns harassment, denigration, discriminatory actions and the promotion of hatred. The Board will not tolerate, ignore, or condone discrimination or harassment and is committed to promoting respectful conduct, tolerance and diversity at all times. All employees are responsible for respecting the dignity and rights of their co-workers and the public they serve.

2.0 Application

This policy applies to all Board employees who must abide by this policy, the *Ontario Human Rights Code*, the *Occupational Health and Safety Act*, and any other relevant Board policy and legislation.

Members of the public, service recipients, visitors to and users of Board facilities/public space and individuals conducting business with, for or with support from the Board, are expected to adhere to this policy. This includes refraining from discriminating and/or harassing Board employees and persons acting on behalf of the Board. If such discrimination and/or harassment occur, the Board will take action to ensure a harassment/discrimination-free workplace, facility and service provision, including barring a harasser from its facilities, limiting services, discontinuing business and/or revoking contracts with consultants or contractors.

Social Areas & Prohibited Grounds

2.1 Services and Facilities: Every person has a right to equal treatment with respect to Board services and facilities, without discrimination or harassment because of one or more of the following prohibited grounds:

- Age, Ancestry, Colour, Citizenship, Creed, Disability, Ethnic Origin, Family Status, Gender Expression, Gender Identity, Marital Status, Place of Origin, Race, Sex (including pregnancy, breast feeding) and Sexual Orientation.

2.2 Occupation of Accommodation: Every person has a right to equal access with respect to the occupancy of Board-owned accommodation, without discrimination because of one or more of the following prohibited grounds:

- Age, Ancestry, Colour, Citizenship, Creed, Disability, Ethnic Origin, Family Status, Gender Expression, Gender Identity, Marital Status, Place of Origin, Race, Receipt of Public Assistance, Sex (including pregnancy, breast feeding) and Sexual Orientation.

2.3 Contracts: Every person having legal capacity has a right to contract on equal terms without discrimination because of one or more of the following prohibited grounds:

- Age, Ancestry, Colour, Citizenship, Creed, Disability, Ethnic Origin, Family Status, Gender Expression, Gender Identity, Marital Status, Place of Origin, Race, Sex (including pregnancy, breast feeding) and Sexual Orientation.

All Board contracts and agreements for services delivered by a third party individual or organization that has been contracted under the Board's Purchasing Bylaw or using Board facilities, will be advised of the Board's *Declaration of Compliance with Anti-Discrimination Legislation & Board Policy* and be subject to consequences for non-compliance.

2.4 Employment: Every person has a right to equal treatment in employment without discrimination or harassment because of one or more of the following prohibited grounds:

- Age, Ancestry, Colour, Citizenship, Creed, Disability, Ethnic Origin, Family Status, Gender Expression, Gender Identity, Marital Status, Place of Origin, Race, Record of Offences, Sex (including pregnancy, breast feeding), Sexual Orientation, and Workplace Harassment.

3.0 Roles & Responsibilities:

Upholding human rights principles and obligations is a shared responsibility. All management staff have the following general responsibilities with respect to human rights:

- modelling respectful behaviour; setting and enforcing standards of appropriate workplace conduct; and remaining alert to incidents of discrimination and harassment that may be occurring in the workplace;
- not engaging in behaviour that would constitute discrimination or harassment under the policy;
- knowing this policy and any complaint procedures developed;
- posting in the workplace the Human Rights and Anti-Harassment/Discrimination Policy and any complaint Procedures developed;
- educating employees to ensure they know what constitutes harassment and discrimination; that neither will be tolerated; and what their rights and responsibilities under the policy;
- taking all necessary steps to deal with allegations/incidents of discrimination and harassment in a timely fashion while maintaining as much confidentiality as possible (even if a direct complaint has not been made);
- implementing remedies where there are findings of discrimination or harassment; and
- reporting all complaints of harassment and/or discrimination to the Human Resources Division of the Office of the Chief Executive Officer.

3.1 Executive Management Team:

- providing leadership in creating and maintaining discrimination-free, harassment-free, and respectful workplaces;
- receiving formal investigation reports and making final decisions (in consultation, as required, with the City's Human Rights Office, Employee & Labour Relations and Legal Services staff) about the disposition of a complaint;
- ensuring the development of complaint procedures and communicating these procedures to staff;
- communicating final decisions about the disposition of a formal complaint in writing to the parties;
- ensuring resource availability and effective implementation of complaint settlements, remedies and corrective actions;
- ensuring that staff are held accountable for their responsibilities under the policy and have the appropriate knowledge and skills to meet their obligations;

- ensuring the Declaration of Compliance with Anti-Discrimination Legislation and Board Policy and/or its stated intent is communicated to all Board contracts, clients and service agreements;
- facilitating harassment and/or discrimination complaint dispute resolution related to contracted services where appropriate; and
- addressing service delivery contract breaches related to harassment and/or discrimination in consultation with the Board's solicitor.

3.2 Directors, Managers and Supervisors:

- ensuring that the services they provide are free from barriers and that processes are in place to provide accommodation as required under the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act;
- documenting details of concern, actions taken, outcomes or remedies implemented;
- monitoring situations where discrimination or harassment occurred to ensure the harassment or discrimination has stopped and does not reoccur;
- cooperating in good faith, in investigations;
- responding to and taking appropriate action to resolve/remedy complaints of workplace harassment (see section 4.9); and,
- addressing employee incivility.

3.3 Human Resources Division:

- supporting management in addressing issues of discrimination and harassment and processing accommodation requests;
- organizing training for management and employees on the Human Rights and Anti-Harassment / Discrimination Policy and related legislative obligations and providing the CEO with information/data on annual participation by employees in human rights training;
- cooperating with investigations; and
- promoting compliance with and awareness of the Board's equity legislative and policy obligations.

3.4 Employees:

- being familiar with their rights and responsibilities under this policy;
- ensuring behaviour is respectful related to all employment activities;
- not engaging in behaviour that would constitute discrimination or harassment towards members of the public, co-workers, and management;
- immediately reporting incidents of harassment, discrimination, reprisal experienced and/or witnessed in accordance with the complaint procedures developed;
- documenting details of harassment and discrimination that are experienced or witnessed;
- co-operating in good faith in interventions and investigations to resolve human rights harassment issues; and
- maintaining confidentiality related to human rights investigations.

4.0 Definitions

4.1 Allegation: An allegation is an unproven assertion or statement based on a person's perspective that the policy has been violated.

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

4.3 Discrimination: Discrimination is any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group because of membership in a group protected in the Ontario Human Rights Code (e.g., disability, sex, race, sexual orientation, etc.) or circumstances unrelated to the person's abilities or the employment or service issue in question. Discrimination may arise as a result of direct differential treatment or it may result from the unequal effect of treating individuals and groups in the same way. Either way, if the effect on the individual is to withhold or limit full, equal and meaningful access to goods, services, facilities, employment, housing accommodation or contracts available to other members of society, it is discrimination.

4.4 Duty to Accommodate: The legal obligation to take steps to eliminate disadvantage caused by systemic, attitudinal or physical barriers that unfairly exclude individuals or groups protected under the Ontario Human Rights Code. It also includes an obligation to meet the special needs of individuals and groups protected by the Code unless meeting such needs would create undue hardship. Failure to accommodate a person short of undue hardship is a form of discrimination (for service provision accommodation obligations, refer to the *Accessibility for Ontarians with Disabilities Act*; in the area of employment, refer to the *Employment Accommodation Policy*).

4.5 Employee: For the purpose of this policy, the term employee includes: Board employees, job applicants and individuals performing services directly on the Board's behalf whether with or without compensation or benefit, excluding individuals providing services by way of service provision/third party contracts – see section 2.3

4.6 Equal Treatment: Equal treatment is treatment that brings about an equality of results and that may, in some instances, require different treatment. For example, to give all employees equal treatment in entering a building, it may be necessary to provide a ramp for an employee who requires the use of a wheelchair.

4.7 Harassment: Provisions regarding harassment are included in both the *Ontario Human Rights Code*, referred to as "Code Harassment", (see section 4.8) and the *Occupational Health and Safety Act*, referred to as "Workplace (non-Code) Harassment", (see section 4.9). It is a form of discrimination if it is Code Harassment. Harassment may result from one incident or a series of incidents. Harassment can occur between co-workers, between management and employees, between employees and vendors, between employees and recipients of Board services, and between employees and members of the public.

4.8 Code Harassment: Defined in the *Ontario Human Rights Code* and means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome based on one or more of the prohibited grounds listed in the Ontario Human Rights Code, that a person knows or ought to know would be unwelcome, offensive, embarrassing or hurtful – see section 2.0 for a list of prohibited grounds.

Examples of Code harassment based on a prohibited ground include, but are not limited to:

- inappropriate jokes, innuendos, name-calling, teasing;
- insulting gestures;
- practical jokes which result in embarrassment;
- displaying pin-ups, pornography, racist, homophobic or other offensive materials;
- use of electronic communications such as the internet and e-mail to harass;
- actions that invade privacy;
- spreading rumors that damage one's reputation;
- refusing to work with another;
- condescending or patronizing behaviour;
- abuse of authority which undermines performance or threatens careers; and
- unwelcome touching, physical assault or sexual assault (refer to the Board's Workplace Violence Policy).

There is no legal obligation for an individual to tell a harasser to stop. 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 or that it has been consented to.

4.9 Workplace Harassment: is harassment that is not related to a prohibited ground identified in the *Ontario Human Rights Code*. Workplace harassment, defined in the *Occupational Health and Safety Act* means 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.

Workplace harassment often involves a course or grouping of behaviours. However a single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute workplace

harassment.

This policy is not intended to interfere with constructive feedback regarding performance or operational directives provided to employees by their supervisors or managers.

Examples of workplace harassment include a pattern of:

- frequent angry shouting/yelling or blow-ups;
- regular use of profanity and abusive language;
- verbal or e-mail threats (not including threats to exercise physical force which are covered by the workplace violence policy), intimidation;
- targeting individual(s) in humiliating practical jokes;
- excluding, shunning, impeding work performance;
- spreading gossip, rumors, negative blogging, cyber-bullying;
- retaliation, bullying, sabotaging;
- unsubstantiated criticism, unreasonable demands;
- frequent insults and/or name calling;
- public humiliation;
- communication that is demeaning, insulting, humiliating, mocking;
- intent to harm; and
- a single, serious incident that has a lasting, harmful impact.

Workplace harassment does not include:

- legitimate performance/probation management;
- appropriate exercise and delegation of managerial authority;
- operational directives;
- a disagreement or misunderstanding;
- conflict between co-workers;
- work related change of location, co-workers, job assignment;
- appropriate discipline;
- less than optimal management;
- a single comment or action unless it is serious and has a lasting harmful effect;
- rudeness unless it is extreme and repetitive; and
- conditions in the workplace that generate stress (technological change, impending layoff, a new boss, friction with other employees, workload, etc.).

4.10 Racial Harassment: Racial harassment is harassment on the ground of race. It may also be associated with the grounds of colour, ancestry, where a person was born, a person's religious belief, ethnic background, citizenship or even a person's language. Racial harassment/discrimination can include:

- racial slurs or jokes;
- ridicule, insults or different treatment because of your racial identity;
- posting/e-mailing cartoons or pictures that degrade persons of a particular racial group; and
- name-calling because of a person's race, colour, citizenship, place of origin, ancestry, ethnic background or creed.

4.11 Sexual Harassment: Sexual harassment is harassment on the ground of sex.

This includes:

- a sexual advance or solicitation from anyone if the person knows or ought to know the advance is unwelcome -especially if the advance is from a person in a position to give or deny a benefit, to engage in a reprisal, or if a threat of reprisal is made if the advance is rejected;
- sexually suggestive or obscene remarks or gestures;
- leering (suggestive staring) at a person's body;
- unwelcome physical contact;
- having to work in a sexualized environment (bragging about sexual prowess, or discussions about sexual activities);

- circulation of posting of sexist jokes or cartoons, display of pin-up calendars or other objectifying images;
- negative stereotypical comments based on gender, sex or sexual orientation;
- gender related comments about an individual's physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms; and
- exercising power over another person, making them feel unwelcome or putting them 'in their place' – motivated by sexual interest.

This policy is not intended to interfere with normal social interaction between employees.

4.12 Poisoned Work Environment: A poisoned work environment is a form of indirect Code based harassment/discrimination. It occurs when comments or actions ridicule or demean a person or group creating real or perceived inequalities in the workplace. Pornography, pin-ups, offensive cartoons, insulting slurs or jokes, and malicious gossip (even when they are not directed towards a specific employee or group of employees) have been found to “poison the work environment” for employees.

4.13 Prohibited (Protected) Grounds: The list of grounds for which a person or group is protected under the Ontario Human Rights Code. See Application section 2.0 for a list of prohibited grounds. Under the Code, case law and this policy, there are protections where there is a perception that one of the prohibited grounds applies or where someone is treated differently because of an association or relationship with a person identified by one of the above grounds.

4.14 Reasonable Person Test: This is an objective standard to measure whether a comment or conduct is discrimination or harassment. It considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. It considers the recipient's perspective and not stereotyped notions of acceptable behaviour. This standard is used to assess human rights complaints under this policy.

4.15 Respondent: The person who is alleged to be responsible for the discrimination or harassment. There can be more than one respondent in a human rights complaint.

4.16 Workplace: The workplace includes all locations where business or social activities of the Board are conducted. This Policy may apply to incidents that happen away from work (e.g., inappropriate phone calls, e-mails or visits to an employee's home, incidents at luncheons, after work socials).

5.0 Harassment & Discrimination Prevention Resources

The Board is committed to providing training and education to ensure that all Board staff have knowledge about their rights and responsibilities under the Human Rights and Anti-Harassment/Discrimination Policy.