



## X. Anti-Harassment/Anti-Discrimination Policy

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### How to Use this Manual:

This policy should be reviewed and signed off by all new employees to confirm that they have read and understood.

## Section A: Policy

### 1. Organizational commitment

Canadian Roots Exchange (CRE) believes that the human rights of all persons associated with CRE must be protected, to ensure that every person is treated with dignity and respect, and provided with equal rights and opportunities without discrimination.

CRE is committed to practices and processes that foster equity and inclusion in the face of marginalization within all of its undertakings. CRE acknowledges that this involves ongoing work, learning and reflection, and varied approaches to addressing the systemic inequities in our society; that people can experience marginalization in many and intersecting ways; that individual contexts are different and people's lived realities are complex.

CRE is committed to providing a work environment in which all present are treated with respect and dignity. Every person has the right to be free from discrimination and harassment, including, but not limited to, harassment contrary to the Ontario Human Rights Code ("Code"). Harassment of any kind and discrimination will not be tolerated, condoned or ignored at CRE from any person, including staff members, volunteers, participants, interns, independent contractors, partners and members of the public.

Any employee, independent contractor, volunteer, partner, participant or intern who is found to be violating this policy by engaging in discrimination and /or harassment will be subject to disciplinary action, up to and including the termination of their working relationship with CRE.

If the person in violation of the policy is a volunteer or community participant, and if their discriminatory behavior is deemed sufficiently severe or persistent, they may be asked to end their involvement with CRE.

CRE is committed to a comprehensive strategy to address harassment and discrimination, including:

- providing orientation and education to ensure everyone knows their rights and responsibilities;
- providing effective and fair complaints and conflict resolution procedures;
- promoting and demonstrating appropriate standards of conduct at all times.

It is the responsibility of every person associated with CRE to honour and adhere to the letter and spirit of this policy, and to support its aim of creating a climate of understanding and mutual respect for the dignity, equity and rights of each individual.

## 2. Policy Objectives

The objectives of this Policy are to:

- make sure that all persons working or associated with CRE are aware that harassment and discrimination are unacceptable practices and are incompatible with the standards of this organization, as well as being a violation of the law;
- set out the types of behaviour that may be considered offensive and are prohibited by this policy; and
- enhance CRE capacity for and commitment to principles that support equal opportunity and inclusion.

CRE's commitment to addressing systemic marginalization includes:

- working towards the elimination of all forms of marginalization in how we provide programs and services;
- supporting processes of change concerning inequitable practices and resource allocations that maintain systemic barriers for marginalized people;
- supporting work being carried out by others directed to achieving these goals;
- providing learning opportunities regarding access and equity, anti-harassment and anti-discrimination for employees, independent contractors, board and volunteers; and,
- examining and improving relevant practices, policies and protocols on an ongoing basis.

## 3. Applying the Policy

The right to freedom from discrimination and harassment extends to all staff members, independent contractors, service-providers, volunteers, interns and community participants.

This policy applies at every level of the organization and to every aspect of the workplace environment and employment relationships, including recruitment, selection, promotion, transfers, training and orientation, pay, benefits and termination.

This policy also applies to events that occur outside of the physical workplace such as during organizational-related trips or social activities.

## 4. Protected Grounds

This policy prohibits harassment of any kind, and prohibits discrimination based on the following grounds identified under the Code, and any combination of these grounds:

- Age
- Creed (religion)
- Sex (including pregnancy and breastfeeding)
- Sexual orientation
- Gender identity
- Gender expression
- Family status (such as being in a parent-child relationship)
- Marital status (including married, single, widowed, divorced, separated or living in a conjugal relationship outside of marriage, whether in a same-sex or opposite-sex relationship)
- Disability (including mental, physical, developmental or learning disabilities)
- Race
- Ancestry
- Place of origin
- Ethnic origin
- Citizenship
- Colour
- Receipt of public assistance
- Record of offences (being a conviction for a provincial offence or for an offence for which a pardon has been received)

This prohibition extends to discrimination or harassment on the perception that one of the above ground applies, or on grounds of association or relationship with a person identified by the above list.

CRE also acknowledges that people may experience discrimination and harassment based on the intersection of multiple, intersectional grounds of discrimination.

## 5. Definitions

**Discrimination:** means any form of unequal treatment based on a Code ground, whether such treatment involves imposing burdens, obligations or disadvantages or denying benefits or opportunities. It may be intentional or unintentional. It may involve direct actions that are

overtly discriminatory, or it may involve rules, practices or procedures that appear neutral, but disadvantage certain groups of people on the basis of one of the characteristics identified in the Code. Discrimination, however, requires more than there being a distinction in how people are treated; the distinction must have an arbitrary impact due to the identified characteristic. Even if there are many factors affecting a decision or action, if a discriminatory consideration is one factor, that is a violation of this policy.

**Harassment:** means engaging in a course of vexatious comment or conduct 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. Harassment occurs regardless of whether the vexatious comments or conduct are on the basis of a protected ground.

If a person does not explicitly object to harassing behaviour, or appears to be going along with it, this does not mean that the behaviour is acceptable. The behaviour could still be considered harassment.

Harassment based on protected grounds: means a course of comments or actions that are known, or ought reasonably to be known, to be unwelcome. It involves words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning or unwelcome, based on a ground of discrimination identified by this policy. Harassment can occur based on any of the protected grounds of discrimination.

Some examples of harassment include:

- Epithets, remarks, jokes or innuendos related to a person's race, gender identity, gender expression, sex, disability, sexual orientation, creed, age, or any other ground;
- Questioning a person's identity;
- Posting or circulating offensive pictures, graffiti or materials, whether in print form or via e-mail or other electronic means;
- Singling out a person for humiliating or demeaning "teasing" or jokes because they are a member of a Code-protected group; or
- Comments ridiculing a person because of characteristics, particularly those that are related to a ground of discrimination. For example, this could include comments about a person's dress, speech or other practices that may be related to their sex, race, gender identity or creed.

Sexual and gender-based harassment: Sexual harassment is a particular type of harassment and discriminatory conduct that cannot be tolerated. Sexual harassment may take various forms, such as:

- Gender-related comments about a person's physical characteristics or mannerisms;
- Condescension based on gender, which a person feels undermines his or her self-respect or position of responsibility;
- Unwelcome physical contact;
- Suggestive or offensive remarks or innuendoes about members of a specific gender;
- 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 participant;
- Vulgar humour or language related to gender;
- Display of sexually offensive pictures, graffiti or other materials including via electronic means;
- Demands for dates or sexual favours.

**Sexual solicitation:** Unwanted sexual solicitations or advances are prohibited, particularly 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 and supervisors, 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/solicitations are not permissible.

**Poisoned environment:** A poisoned environment is created by 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 person, and may be from any person, regardless of position or status. A single comment or action, if sufficiently serious, may create a poisoned environment.

### **Ongoing review of policy and procedure**

At least once a year, Human Resources, the grievance support people and the Health and Safety Committee will undertake a review of this policy in partnership with the Executive Director between March - May. If desired, a regular volunteer or community participant can be added to the review committee. The aim of this review is to develop recommendations as to how the policy can better reflect our access and inclusion goals. This may include recommendations for the modification, deletion or addition of elements of the policy.

The review committee will present their recommendations to the Board. These

recommendations do not bind the organization into action. The Board of Directors, along with the Executive Director, will review the recommendations and decide what will be introduced into the policy.

The review process will be informed by the belief that multiple, and sometimes divergent, perspectives can engender rich dialogue, essential learning opportunities and potential for change.

Those undertaking the review are charged to be mindful that the review takes place in the service of the organization with the goal of better serving its vision, mission, mandate and communities. They have the responsibility to deal directly with each other in a collaborative and respectful spirit as comrades in this process.

If the review is not completed as scheduled, this existing policy will remain in effect and all reasonable efforts should be made by the organization to ensure the review is conducted in a timely fashion.

The policy may also be updated and modified at any time, by the Executive Director with Board approval, e.g. in the case of a significant revision of the Ontario Human Rights Code; as a result of finding that a procedure contained in the policy is either contrary to legal practices or inoperable; if a section could be better expressed or enhanced; or a new section is deemed to be beneficial.

### **Roles and responsibilities**

All persons involved in CRE operations and activities are expected to uphold and abide by this policy, by demonstrating appropriate behaviours and responses; by refraining from any form of harassment or discrimination; by cooperating fully in any investigation of harassment or discrimination complaints; and by respecting protocols of confidentiality.

Executive Directors, senior managers and supervisors have the additional responsibility to act immediately on observations or allegations of harassment or discrimination, and are responsible for creating and maintaining a harassment- and discrimination-free organization, and should address potential problems before they become serious.

CRE Board of directors will designate two of its members to receive complaints and/or manage conflicts if needed. Staff members may request the names and contact information for these board members at any time. The provisions of this policy and procedure in no way affect the right of any person to exercise his or her rights under the Ontario Human Rights Code, within the time limits specified by that legislation.

## **Protection of persons bringing complaints forward**

No person should face negative consequences for taking part in the complaint process. In other words, they are protected from "reprisal." Protection under the *Code* from reprisal covers:

- *Complainants*
- *Witnesses*
- *Advisors*
- *Representatives of complainants and witnesses*
- *Investigators*
- *Decision makers/management.*

A person who believes that he or she has been subjected to reprisal should be able to file a complaint under the procedure.

Every person has a right to claim and enforce their right to a workplace free of harassment and discrimination. No person shall be negatively treated or disciplined for bringing forward a complaint, providing information related to a complaint, or helping to resolve a complaint. Reprisal may be the subject of a complaint under this procedure, and persons engaging in reprisal are subject to disciplinary measures, up to and including termination of employment.

## **B. Procedures for resolving complaints**

Whenever possible or appropriate in the circumstances, a person who is experiencing discrimination or harassment (complainant) should try to address the conduct in question with the person who they believe has engaged in that conduct. Complainants are encouraged to explain to the person who is harassing them or discriminating against them that the conduct is unwelcome. However, complainants are not obliged to raise the concern directly with the other person or persons. Complainants are not expected to have to directly interact with that person, if they believe that addressing the person responsible could lead to an escalation or continuation of the harassment or discrimination or incur safety risks.

If the complainant does not want to or feels they cannot interact with the person about whom they are complaining, the complainant is encouraged to approach either the Executive Director, a grievance person, or member of senior management, with the concern. For complainants that are CRE participants they can approach either the program manager or staff member at CRE. If the complaint is directed at the Executive Director, the complainant should approach another appropriate senior staff member, or a designated member of the Board of Directors directly.



In either case, the complainant will be asked either to provide a written or oral description of the complaint to the person whom they approach under paragraph 2. If an oral description, the person approached will write it down. This description should include details of:

- What happened – a description of the events or situation;
- When it happened – dates and times of the events or incidents;
- Where it happened - location (in person, over the phone, online); and
- Who saw it happen – names of witnesses, if any and their actions at the time of disclosure.

The person receiving the complaint will notify the person(s) who is the subject of the complaint and provide that person(s) with a copy of the written complaint obtained in paragraph 3.

Where appropriate, the person receiving the complaint will offer the parties an opportunity to mediate the complaint. No person will be required to undertake mediation. Mediation will be conducted by a neutral and qualified third-party mediator\*. Mediation may take place at any stage during the process set out in this policy.

\*A mediator is a neutral third party who acts as a facilitator to help the parties reach a negotiated settlement that both parties agree to. A mediator can be either internal or external to CRE, depending on whether persons with the needed skills, expertise and neutrality are available within the organization. A mediator will be delegated by the Executive Director or designated senior staff or board member, and agreed to by the parties involved in the complaint.

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

If necessary, the complainant or the person who is the subject of the complaint will be given an adjusted schedule within the organization, or provided with alternative reporting relationships or paid leave of absence (as appropriate within the terms of their contract). The decision will be made on a case-by-case basis and will reflect the principle that the complainant will not be penalized for making the complaint.

Where mediation is not appropriate or is not successful, the person receiving the complaint will determine whether to conduct a further investigation into the complaint or retain a neutral

and qualified third-party\* to conduct an investigation into the complaint. The views of the complainant will be taken into account in making this decision, but they are not determinative.

\*A person selected to conduct an investigation, whether internal or external to the organization, should be neutral and objective. They should not be in a position of direct authority over any of the people involved in a complaint, but should report to someone with the authority to make decisions and have them enforced.

Persons conducting investigations should, furthermore, be knowledgeable about:

- Human rights issues and principles in general;
- The requirements of the *Code*;
- The organization's anti-harassment/anti-discrimination policy and complaints procedure; and Methods for conducting investigations.
- Similar considerations apply to any person whose role is to mediate or conciliate a complaint.

Any investigation into a complaint will include the following steps:

- an interview with the complainant, which interview will be recorded or documented;
- an interview with the person(s) alleged to have engaged in the conduct that is the subject of the complaint, which interview will be recorded or documented;
- interview(s) with any witnesses who are identified as likely having relevant information to provide, which interviews(s) will be recorded or documented;
- collection and review of any possibly relevant documents; and
- any other steps the investigator(s) deems relevant to the investigation of the complaint.

The investigator is responsible for ensuring a thorough, fair and impartial investigation of the allegations in the complaint. All employees of the organization are required to cooperate with the investigator. The investigator will prepare a written report summarizing the allegations and the investigation results.

Any employees or members of the Board of Directors involved in receiving or investigating complaints, including those interviewed during the investigation, will protect the confidentiality and privacy of persons involved in a complaint, subject to the requirements of a fair and thorough investigation and resolution process.

CRE will take all reasonable steps to act as quickly as possible to investigate and respond to complaints. It is expected that any investigation will generally be completed within 90 days

from the date on which the formal complaint was made, unless there are extenuating circumstances (i.e. illness, complex investigation) warranting a longer investigation.

The results of any investigation will be provided to the Executive Director, relevant senior management and designated Board members, in confidence (or, if the Executive Director is the subject of the complaint, then to the designated Board members). The Board of Directors, in consultation with the Executive Director/relevant senior management (who were not the subject of the complaint) shall decide, based on the findings of the investigator, whether the policy has been violated and, if so, whether to impose sanctions or corrective action on the person who was the subject of the complaint.

The appropriate consequences to be considered for employees who have been found to have violated this policy may include:

- An apology
- Education and training
- Verbal or written reprimand
- Suspension with pay
- Suspension without pay
- Termination of employment.

The appropriate consequences to be considered for CRE participants who have been found to have violated this policy may include:

- An apology
- Training
- Transformative justice process
- Removal from the program, or a temporary/permanent ban from participating in all CRE programming

In determining the appropriate consequences for a violation of this policy, designated Board members, Executive Director and senior management will consider the nature of the violation of the policy, its severity, and whether the individual has previously violated the policy.

Where a violation of the policy is found, Executive Director and relevant senior management/supervisors will take any steps necessary to repair the effects of the discrimination or harassment on the complainant, and to prevent any further recurrences of harassment or discrimination within the organization, and to remedy any broader issues that may have been revealed by the complaint (e.g. specific barriers in the workplace, a perception of systemic discrimination, or a need for further training on particular human rights issues).

Within 10 business days of the investigation being completed, the complainant and the person whose conduct is the subject of the complaint will be provided with a copy of the investigator's report and the decision regarding the outcomes of the investigation.

CRE will keep the following records of a formal complaint and investigation for a period of at least two years:

- a copy of the complaint or details about the incident;
- a record of the investigation including notes;
- a copy of the investigation report (if any);
- a summary of the results of the investigation; and
- a copy of any corrective action taken to address the complaint or incident.

All records of the formal complaint and investigation will be kept confidential and retained separately from personnel files in an appropriately secure location and filing format. The investigation documents, other than the report and findings, should not be disclosed unless required by law. The report and findings may be disclosed where necessary to investigate a further incident or complaint under this policy, whether involving the same individuals or not, to determine appropriate future discipline of anyone involved in the complaint or otherwise as required by law.

Where the harassment or discrimination relates to an identified ground under the *Code*, the complainant will be reminded that they can file a claim with the Human Rights Tribunal of Ontario, within one year of the last incident that they concern.