

Policy for the Association of Ontario Land Surveyors (AOLS) Preventing and Responding to Workplace Harassment and Discrimination

The Occupational Health and Safety Act, RSO 1990, c. O.1 last amendment 2016, C.2, Schedule 4, s. 1 (1) defines **Workplace Harassment** as:

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

The Occupational Health and Safety Act RSO 1990, c. O.1 last amendment 2016, C.2, Schedule 4, s. 1 (2) defines **Workplace Sexual Harassment** as:

- (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 to reasonably 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.

The ONTARIO HUMAN RIGHTS COMMISSION defines **Discrimination**:

Means any form of unequal treatment based on a *Code* ground that results in disadvantage, whether imposing extra burdens or denying benefits. It may be 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. It may be obvious, or it may occur in very subtle ways. Discrimination needs only to be one factor among many factors in a decision or action for a finding of discrimination to be made.

STATEMENT OF PRINCIPLES

1. The AOLS is committed to providing a working environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal opportunities and prohibits harassment (which includes sexual harassment) and discriminatory practices.
2. Harassment and discrimination are offensive, degrading and threatening. The AOLS has adopted this workplace policy to make clear that harassment and discrimination will not be tolerated in the AOLS. **AOLS staff or members found to have engaged in behaviour constituting harassment or discrimination, within the Association offices or at Association sponsored meetings or events, may be severely disciplined.**
3. Harassment and discrimination in employment on the basis of 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 are illegal. The Human Rights Code prohibits discrimination and harassment.

RESPONSIBILITIES

1. It is the responsibility of all staff and members of the AOLS to raise concerns about discrimination and harassment. It is also the responsibility of staff and members of the AOLS to respond to discrimination or harassment, and not condone discrimination or harassment. The AOLS encourages staff and

members to report incidents of harassment or discrimination.

2. The AOLS recognizes that individuals who are not staff or members of the AOLS – the public and others, who conduct business with the AOLS, may subject its staff and members to harassment or discrimination. The AOLS will do all it can to ensure that such behaviour is addressed.
3. The AOLS recognizes that proper education and training of staff and members of the AOLS is important in developing a workplace free from harassment or discrimination. All staff and members of the AOLS should understand what constitutes harassment and discrimination, that it is harmful to individuals and to productivity, and that it is strictly prohibited.
4. Notwithstanding the existence of this policy and even though steps are being taken under this policy, every person continues to have a right to seek assistance from external resources, such as the Ontario Human Rights Commission.

RIGHTS AND RESPONSIBILITIES

Rights and Responsibilities of Staff and Members of the AOLS

Each employee and member of the AOLS has the right to be treated fairly and respectfully in the workplace.

Each employee and member of the AOLS is responsible for playing a part in ensuring that the working environment is free from harassment and discrimination by not engaging in conduct, which may constitute harassment or discrimination. In addition, a member or employee who believes that a colleague has experienced or is experiencing harassment or discrimination is encouraged to notify one of the Advisors appointed under this policy and may file a complaint under this policy.

Each employee and member of the AOLS has a responsibility to raise concerns about discrimination and harassment and to co-operate in the investigation of a harassment or discrimination complaint. Each employee and member of the AOLS involved in an investigation under this policy must maintain confidentiality as prescribed in this policy.

Responsibility of the AOLS

The AOLS is responsible for:

- preventing and responding to harassment and discrimination on an ongoing basis, whether or not formal written complaints of harassment or discrimination have been brought to the attention of the AOLS;
- making all staff and members of the AOLS aware of the issue of workplace harassment and discrimination, and the existence of this policy;
- providing staff, members of the AOLS and clients with information regarding avenues of recourse other than those available under this policy;
- appointing one or more individuals to act as internal resources to staff and members of the AOLS and ensuring that they have the resources to assist them to fulfill their responsibilities under this policy;
- regularly reviewing this policy and its procedures to ensure that they adequately meet the policy objectives;
- responding promptly and seriously to any complaint of harassment or discrimination;
- promptly advising the complainant of any action taken in response to the complaint;
- providing advice and support to persons who are subjected to harassment and discrimination;

- when a complaint of harassment or discrimination is found to have been substantiated, formally acknowledging to the complainant that harassment or discrimination has taken place;
- imposing remedial or disciplinary measures when a complaint of harassment or discrimination is found to have been substantiated, regardless of the seniority of the offender;
- maintaining records as required by this policy; and
- doing all in its power to support and assist any member or employee of the AOLS who complains of harassment or discrimination by a person who is not a member or employee of the AOLS.

OBJECTIVES

The objectives of this policy are:

- To maintain a working and meeting environment that is free from harassment and discrimination and in which staff and members treat each other with mutual respect;
- To alert all staff and members of the AOLS to the fact that harassment and discrimination in the workplace are demeaning practices that constitute a profound affront to personal dignity and are an offence under the law;
- To set out the types of behaviour that may be considered offensive and which will not be tolerated by the AOLS;
- To establish a mechanism for receiving complaints of harassment and discrimination and to provide a procedure by which the AOLS will deal with these complaints;
- To outline the preventative, remedial and disciplinary actions that may be taken when a complaint of harassment or discrimination has been brought forward and/or substantiated.

This policy is not intended to constrain acceptable social interactions between people in the AOLS.

APPLICATION OF POLICY

This policy applies to everyone working as an employee of the AOLS, whether part-time, full-time or casual, regardless of their position in the AOLS, including professional and administrative staff, geomatics interns, contractors and summer students **and to members of the AOLS**, including Councillors, Committee members and others **while engaged in the work of the AOLS and at AOLS sponsored events**. The AOLS will not tolerate harassment or discrimination in the workplace, whether by members, fellow employees or supervisors. It is also unacceptable for staff and members of the AOLS to engage in harassment or discrimination when dealing with clients, or other third parties with whom they interact in a professional capacity.

This policy covers any employment or Association related environment including, but not limited to:

- **the office;**
- **staff assignments outside the office;**
- **office-related social functions;**
- **conferences, meetings and training held under the auspices of the Association;**
- **work-related travel;**
- **telephone communications, faxes or electronic mail.**

FURTHER DEFINITIONS

“Harassment” which includes “Sexual Harassment” means one or a course of inappropriate comments or conduct based on any of the following personal characteristics: 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, that is known or ought reasonably to be known to be unwelcome. Harassment has the effect of creating a degrading, intimidating, hurtful or marginalizing work environment for the person experiencing it. There may be circumstances where a single incident is serious enough to amount to harassment.

“Malicious or bad faith complaint” means that a person has made a complaint under this policy that s/he knew was untrue. That is itself a violation of this policy. However, the insufficiency of evidence to prove a complaint does not mean that the complaint was submitted in bad faith. A person who submits a complaint in good faith, even where the complaint cannot be proven, has not violated the policy.

“Discrimination” means unfavourable treatment based on prejudice, especially regarding race, ancestry, place of origin, etc. as above.

Bullying is normally when a person or group tries to hurt or control another person, but bullying may also be unintentional. Sometimes bullying can mean threats or intimidation or behaviour that elicits a hurt feeling in a person or persons.

EXAMPLES OF HARASSMENT

The following are examples of sexual harassment:

- Sexist jokes causing offence especially, but not only, when told after the person making the joke, has been advised that they are embarrassing or offensive.
- Suggestive or offensive remarks.
- Persistent unwanted contact after the end of a consensual relationship.
- Unwelcome physical conduct, such as regularly caressing an employee’s shoulders.
- Propositions of physical intimacy.
- Requests for dates or sexual favours, when you know or ought to know that they are unwelcome.
- Verbal abuse or leering.
- Bragging about sexual prowess.
- Display of sexual and/or offensive pictures, graffiti, cartoons or other materials.
- Delivery of sexual and/or offensive e-mail messages.
- Comments about clothing and physical appearance that are unwelcome or ought to be known to be unwelcome.

The following are examples of racial harassment:

- Comments, signs, caricatures, or cartoons displayed in the workplace that depict minority racial or religious groups in a demeaning manner.
- An employer who tolerates racial graffiti and does nothing to stop it.
- Demeaning racial remarks, jokes or innuendoes about an employee told to other employees, and racist, derogatory or offensive pictures, graffiti or materials related to race or other grounds such as

ethnic origin.

- Delivery of racist and/or offensive e-mail messages or exchange of racist and/or offensive messages through any form of communication.
- Racial remarks, jokes or innuendoes made about other racial groups in the presence of employees who are members of a racial group may create an apprehension on the part of those employees that they too are targets when they are not present.
- Repeated racial slurs directed at the language and accent of a particular group.

The examples referred to above are also not to be tolerated if they are derogatory based on the following characteristics: ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status or disability.

CONFIDENTIALITY

The AOLS understands that it is difficult to come forward with a complaint of harassment or discrimination and recognizes a complainant's interest in keeping the matter confidential.

To protect the interests of the complainant, the person complained against, and any other person who may report incidents of harassment or discrimination, confidentiality will be maintained throughout the investigation process to the extent practicable and appropriate under the circumstances.

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

IMPLEMENTATION GUIDELINES AND STRATEGIES

The AOLS will inform all staff and members of the AOLS of its policy on preventing and responding to workplace harassment and discrimination.

The AOLS will encourage staff and members of the AOLS to raise concerns about harassment and discrimination.

The AOLS will ensure that all members and staff of the AOLS are educated on the content and the scope of the policy.

The AOLS will ensure that everyone working for the AOLS or who is a member or an employee of the AOLS and others in the work context, such as volunteers, geomatics interns, students, dependant and independent contractors sign a "Commitment to the Prevention of Harassment and Discrimination at the AOLS" (included at Appendix E of this policy) acknowledging receipt and understanding of the policy.

The AOLS will review the policy on an annual basis and revise as necessary and will attempt to identify barriers that might affect staff and members identified by personal characteristics listed in the Code. The first review will take place one year after the adoption of the policy.

PROCEDURES FOR HANDLING COMPLAINTS

Advisors

The Deputy Registrar and the Executive Director are appointed as Advisors

Advisors can assist staff and members of the AOLS by,

- answering questions;
- explaining any aspect of the policy;
- outlining options for remedy;
- helping staff and members of the AOLS with the implementation of a remedy; and
- helping staff or members of the AOLS document a complaint for investigation.

Advisors are impartial and may provide assistance in resolving issues of harassment and discrimination to any employee or member of the AOLS. That can include speaking to another employee or member of the AOLS on behalf of a complainant or respondent, facilitating a solution, between two or more affected parties or assisting a complainant or a respondent through an investigation. Advice provided by Advisors is not and should not be considered as legal advice.

Advisors are advocates for a workplace free of harassment and discrimination they are not advocates for an individual. Advisors maintain confidentiality to the extent practicable and appropriate under the circumstances. They are not investigators under the policy nor are they decision-makers.

Notification of a complaint to an Advisor

The policy does not stipulate a time limit for reporting a complaint. Ideally, people who have been subjected to harassment and discrimination will report the matter promptly. It should be drawn to the attention of all staff and members as part of the educative process that the longer they wait to report an incident, the more chance there will be that witnesses will be unavailable and/or witnesses will not remember the events.

It is acknowledged that fear of retaliation or embarrassment may cause a person to wait until the harassment or discrimination becomes unbearable before reporting the incident. The very act of having to report harassment or discrimination may also add to the individual's distress.

A confidential record will be kept, in those cases where no complaint is laid and no action is taken. If, on a later occasion, evidence of further harassment by the same person comes to the attention of the Advisors, the record of the first incident may persuade the Advisors that it is necessary to pursue the matter further.

Laying of formal complaint

Where the complainant decides to lay a formal written complaint, an Advisor may assist the complainant to draft a formal written complaint, which must be signed by the complainant.

Issuing a Formal Written Complaint

The Advisors should inform the complainant that the Human Rights Commission can, in its discretion, decide not to deal with a complaint when the facts upon which the complaint is based occurred more than six months before the complaint was filed.

A Formal Written Complaint under this policy is issued to the Registrar of the AOLS.

Upon the receipt of the Formal Written Complaint, the Registrar of the AOLS will, without delay:

- provide a copy of the complaint and of the policy to the complainant and to the respondent; and
- advise the complainant and the respondent that he or she has the right to be represented by legal

counsel or other person of choice at any stage of the process when he or she is required or entitled to be present.

The Registrar of the AOLS will, within a reasonable time (not more than 30 days), interview the complainant to document the details of the complaint, what remedy the complainant is seeking and what process under the policy the complainant wishes to pursue.

The Registrar of the AOLS will, within a reasonable time (not more than 30 days), interview the respondent to document his or her perspective of the events and ascertain, with the agreement of the complainant, if the respondent would be willing to proceed through mediation.

Where the complaint involves the conduct of the Registrar of the AOLS, the concerned individual will report the incident to the second most senior member of the AOLS, not previously involved in the matter, who shall assume the responsibilities of the Registrar of the AOLS under this policy.

Mediation

If the Registrar of the AOLS and both parties consider that mediation is appropriate, the Registrar shall ascertain whether the parties prefer an internal or an external mediation process. If they do not agree, the mediation will be external.

If the parties agree to an internal mediation, the Registrar of the AOLS will, within a reasonable time (not more than 30 days), appoint a member or staff of the AOLS who has mediation training to act as mediator.

If the parties do not agree to an internal mediation, if an internal mediator cannot be appointed or if an internal mediation has failed, the Registrar of the AOLS will proceed with an external mediation. A neutral, trained mediator selected by the Registrar of the AOLS will conduct the external mediation process on behalf of the AOLS. The AOLS will bear the cost of mediation.

An internal or an external mediator will have the experience and knowledge in the areas that are the subject of the complaint. On the request of a complainant, every effort will be made to have a mediator who is a member of the equality-seeking community of the complainant.

Because of the serious nature of an allegation of harassment or discrimination and the potential harmful effects on a reluctant complainant or an individual accused of discrimination or harassment, it is essential that the reluctant complainant and the respondent be informed of the right to retain counsel. The complainant and the respondent will bear the cost of such representation.

Where a resolution is reached through internal or external mediation, a written statement shall be prepared. The statement will contain details of the complaint, the response of the respondent, the agreed upon outcome and a mechanism to ensure appropriate implementation of the outcome. Both parties and the mediator will sign the statement. A copy of the statement of resolution shall be placed in the respondent's personnel file.

The outcome of the internal and/or external mediation, and the statement of resolution, will be reported to the Registrar of the AOLS. If the Registrar of the AOLS believes that, notwithstanding the satisfactory resolution between the parties, the resolution has not addressed the AOLS's obligations under the policy, he or she will consider whether a formal investigation is warranted.

If a satisfactory resolution cannot be reached, the Registrar of the AOLS will consider whether a formal investigation is warranted.

Formal Investigation

The Registrar of the AOLS may, at any stage of the complaints process, proceed with a formal investigation under the policy. The Registrar of the AOLS or an external investigator will perform the formal investigation. If the Registrar of the AOLS conducts the formal investigation, he or she shall do so promptly and decide whether or not the complaint is upheld or dismissed and shall implement what remedy he or she considers appropriate in the circumstances.

If the Registrar of the AOLS believes that an external formal investigation is warranted, he or she shall appoint a neutral third party who has expertise in human rights and investigation to act as an external investigator. The AOLS will bear the costs of such a formal investigation.

The internal and/or external investigation process will follow accepted principles of fairness, including

- an impartial investigation;
- the right to know the allegation and the defence;
- the right to offer evidence and witnesses; and
- the right to rebut relevant evidence.

Whether conducted internally or by an external investigator, the formal investigation will be conducted in confidence. Confidential interviews with relevant parties will be conducted. Both parties will have an opportunity to identify witnesses or others to be interviewed. Any other person who may have information about the incidents may be interviewed.

The formal investigation will be undertaken and completed within six months of the appointment of an investigator, unless delays occur in good faith and no substantial prejudice will result to any person affected by the delay.

If the investigator decides that the matter would best be resolved through voluntary mediation, he or she will, with the consent of the complainant, the respondent and the Registrar of the AOLS, take the role of mediator and the mediation process of this policy will apply.

The internal or external investigator will provide a written summary of findings, which will include:

- the allegations of harassment or discrimination
- the evidence
- the findings

The written summary of findings will be provided to the complainant and to the respondent. The complainant and the respondent will reply in writing within one week of receipt of the summary of findings or other reasonable period as agreed to by the parties or as determined by the Registrar of the AOLS.

The external investigator will file a report with the Registrar of the AOLS, based on the summary of findings and on the replies from the complainant and the respondent. The report may also include recommendations on appropriate resolutions.

Generally, the only person who has access to witness statements is the investigator. When the investigator provides his or her final report, he or she does not refer to witnesses by name.

Action taken Following Outcome of Formal Investigation

Based on the findings of the formal investigation, the Registrar of the AOLS in conjunction with the appropriate level of management shall make a decision as to whether the policy has been violated and what action will be taken as a result of the findings.

The purpose of this policy is preventative and remedial. If it is determined that an employee or a member of the AOLS has violated this policy, and depending on the severity of the violation, appropriate consequences will be determined and can include an apology, education, counseling, verbal or written reprimand, transfer, a financial penalty, the suspension with or without pay of the employee or the discharge of the employee. A member of the AOLS may be referred to the Complaints Committee or Discipline.

The complainant and the respondent will be informed of the outcome of the formal investigation, the decision made by the Registrar of the AOLS as to whether the policy has been violated and what action will be taken as a result of the findings.

Where the formal investigation results in a finding that the complaint of harassment is substantiated, the outcome of the formal investigation, and any remedial or disciplinary action, will be recorded in the respondent's file. These written records will be maintained for ten years unless new circumstances dictate that the file should be kept for a different period of time. The complaint will not form part of the complainant's file unless so requested by the complainant.

The Registrar of the AOLS will be responsible for monitoring the situation following harassment or discrimination complaints.

If the complainant is not satisfied with the outcome of the formal investigation or the disciplinary action taken by the Registrar of the AOLS, the complainant will be reminded of the right to file a complaint with the Ontario Human Rights Commission, and shall be advised of any time limits applicable to making such a complaint.

Harassment by Persons Who Are Not Members or Staff of the AOLS

A member or employee of the AOLS who considers that he or she has been the subject of harassment by a person who is not a member or employee of the AOLS should seek the advice of an Advisor, or of the Registrar of the AOLS.

The Advisor or the Registrar of the AOLS will provide the complainant with support and assistance in dealing with and remedying this harassment. The complaint procedures provided in this policy may be followed.

A person who is not a member or employee of the AOLS who considers that she or he has been subjected to harassment or discrimination by a person who is a member or employee of the AOLS is encouraged to bring the matter to the attention of the Registrar of the AOLS

APPENDIX A:

DEFINITIONS OF PROTECTED OR PROHIBITED GROUNDS

For the purposes of this policy:

“Age” means an age that is eighteen years or more.

“Creed or religion” means a professed system and confession of faith, including both beliefs and observances or worship. A belief in a God or gods, or a single supreme being or deity is not a requisite. The existence of religious beliefs and practices are both necessary and sufficient to the meaning of creed, if the beliefs and practices are sincerely held and/or observed.

“Family status” means the status of being in a parent and child relationship.

“Marital status” means the status of being married, single, widowed, divorced or separated and includes the status of living with a person, who may be of the same sex, in a conjugal relationship outside marriage.

“On the basis of a disability” means for the reason that the person has or has had, or is believed to have or have had:

- a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
- b) a condition of mental impairment or a developmental disability,
- c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- d) a mental disorder,
- e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

Disability may be the result of a physical limitation, an ailment, a social construct, a perceived limitation or a combination of all these factors. The focus is on the effects of the distinction, preference or exclusion experienced by the disabled person.

“Record of offences” means a conviction for,

- a) an offence in respect of which a pardon has been granted under the Criminal Records Act (Canada) and has not been revoked; or
- b) an offence in respect of any provincial enactment.

APPENDIX B:

WORKPLACE HARASSMENT AND DISCRIMINATION INTAKE FORM

Date Open: _____ Staff or member of the AOLS: _____

Enquirer: _____:

Enquiry Information (i.e. referral, direct call):

Summary:

Confidential

Grounds: (choose the ones that apply) Issue: (choose the one(s) that apply)

Age Accommodation Creed/Religion Harassment Disability Discrimination Family Status
Policy information Same-Sex Partnership Status Information request Gender or Sex Reprisal

Race/Colour/Origins Other _____

- Record of Offences
- Sexual Orientation/Transgender
- Not specified
- Other (specify) _____

Action: (choose one):

- Consultation
- Referral
- Informal Process
- Formal Complaint
- Formal Investigation
- Information
- Monitoring

Date Closed:

ACTIVITY HISTORY

Date/Time

Activity

APPENDIX C:

COMPLAINT FORM under AOLS Workplace Harassment and Discrimination Policy

I _____ (Name of complainant) working as a _____ (Title) in the _____ (Department) have reasonable grounds to believe that _____ (Name of respondent), working as a _____ (Title) in the _____ (Department) has discriminated/harassed against me in employment on or about _____. (Date)

The grounds of discrimination or harassment are:

The particulars are as follows:

Signed at: (place) _____ on: (date) _____

Complainant's signature: _____

APPENDIX D:

RESPONSE FORM under AOLS Workplace Harassment and Discrimination Policy

I _____ (Name of respondent) working as a _____ (Title) in the _____ (Department) have received a complaint signed by _____ (Name of complainant) working as a _____ (Title) in the _____ (Department) alleging that I have discriminated/harassed against him/her in employment on or about _____. (Date)

The grounds of the alleged discrimination or harassment are:

I deny the allegations and provide particulars as follows:

Signed at: (place) _____ on: (date) _____

APPENDIX E:

COMMITMENT TO THE PREVENTION OF HARASSMENT AND DISCRIMINATION AT THE AOLS

I, _____, acknowledge receipt of a copy of the AOLS's "Preventing and Responding to Workplace Harassment and Discrimination" policy.

Having read the policy, I am familiar with the internal complaint resolution process established by the AOLS and indicate my understanding of it.

As a _____ (i.e. staff person, contractor, geomatics intern, student, member) of the AOLS, I also agree with the intent to provide a work environment that is free from harassment and discrimination, and which provides for a cooperative, respectful, safe and professional work environment for all staff and members of the AOLS.

Name: _____

Date: _____

Policy provided by: _____

Date: _____