### **B. Workplace Harassment Policy**

### **(Including Sexual Harassment)**

**Effective Date:\***

**Revised Date:\***

**Reviewed By:\***

**References:**

* *Human Rights Code*, R.S.O. 1990, c. H.19
* PART III.0.1 of the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1
* Section 6.3 of the Rules of Professional Conduct (“Sexual Harassment”)
* Section 6.3.1 of the Rules of Professional Conduct (“Discrimination”)
* Paralegal Rules of Conduct
* Section 33, Law Society Act, R.S.O. 1990, c. L.8
* Guide to developing human rights policies and procedures (OHRC, revised 2013)

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**PURPOSE:**

XYZ is committed to providing an environment free of harassment, where all individuals are treated with respect and dignity, can contribute fully, and have equal opportunities.

The purpose of this policy is:

* To ensure that XYZ meets its obligations under the *Human Rights Code* (“the *Code*) and the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 (OHSA) to prevent workplace harassment, including sexual harassment
* to ensure that all partners and employees of XYZ are aware that workplace harassment is unacceptable and incompatible with the standards of this organization, as well as being a violation of the law
* to set out the types of behaviour that may be considered offensive and that are prohibited by this policy
* to provide the procedure that will be followed to deal with complaints of workplace harassment made by partners or employees of XYZ

**SCOPE:**

This policy:

* applies at every level of XYZ, and extends to all partners, employees (including full-time, part-time, temporary, probationary, and casual and contract staff), and students
* applies to the physical offices of XYZ
* extends outside of the offices of XYZ (such as to off-site client meetings, business travel, and firm-sanctioned social events, and to electronic communications)

**PROHIBITED CONDUCT**

Workplace harassment will not be tolerated from any person in the workplace (including fellow employees or partners, clients, other employers, supervisors, and members of the public).

Anyone at XYZ found to have engaged in workplace harassment may be subject to disciplinary action, up to and including termination.

**WHAT IS WORKPLACE HARASSMENT**?

“Workplace harassment” is defined in the OHSA as:

*engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome* ***or*** *workplace sexual harassment.*

“Workplace sexual harassment” is defined in OHSA as:

* + 1. *engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or*
    2. *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;*

Reasonable action taken by XYZ relating to the management and direction of partner or employees or the workplace is not workplace harassment.

**REPORTING WORKPLACE HARASSMENT**

1. **How to Report Workplace Harassment:**

Partners or employees can report incidents or complaints of workplace harassment verbally or in writing. When reporting verbally, the reporting contact, along with the person complaining of harassment, will fill out a complaint form.

The report of the incident should include the following information:

* + - 1. Name(s) of the person who has allegedly experienced workplace harassment and contact information
      2. Name of the alleged harasser(s), position and contact information (if known)
      3. Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known)
      4. Details of what happened including date(s), frequency and location(s) of the alleged incident(s) a. Any supporting documents the person who complains of harassment may have in his/her possession that are relevant to the complaint.
      5. List any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.

1. **Who to Report Workplace Harassment To:**

An incident or a complaint of workplace harassment should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a timely manner.

Partners and employees are encouraged to report any incidents or complaints of workplace harassment to the **[designated person at the firm\*]**. If the **[designated person at the firm\*]** is the person engaging in the workplace harassment, contact **[alternate designated person at the firm\*].** (Note: The person designated as the reporting contact should not be under the direct control of the alleged harasser.)

The **[designated person at the firm\*]** shall be notified of the workplace harassment incident or complaint so that they can ensure an investigation is conducted that is appropriate in the circumstances. Depending on the nature of the allegations and the people involved, an external person qualified to conduct a workplace harassment investigation who has knowledge of the relevant workplace harassment laws will be retained to conduct the investigation.

All incidents or complaints of workplace harassment shall be kept confidential except to the extent necessary to protect employees, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

**INVESTIGATING COMPLAINTS**

1. **Commitment to Investigate**

XYZ will ensure that an investigation appropriate in the circumstances is conducted when any **[designated person at the firm\*]**, manager or supervisor becomes aware of an incident of workplace harassment or receives a complaint of workplace harassment. Complaints or incidents of workplace harassment will be investigated in a fair, respectful and timely manner.

1. **Who Will Investigate**

The **[(perhaps higher level) designated person at the firm\*]** will determine who will conduct the investigation into the incident or complaint of workplace harassment. Depending on the allegations and the people involved, the investigation may be referred to an external investigator to conduct an impartial investigation.

1. **Timing of the Investigation**

The investigation must be completed in a timely manner and generally within 90 days or less unless there are extenuating circumstances (i.e. illness, complex investigation) warranting a longer investigation.

1. **Investigation Process**

The person conducting the investigation whether internal or external to the workplace will, at minimum, complete the following:

* 1. The investigator must ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The investigator should remind the parties of this confidentiality obligation at the beginning of the investigation.
  2. The investigator must thoroughly interview the employee who allegedly experienced the workplace harassment and the alleged harasser(s), if the alleged harasser is an employee of the employer. If the alleged harasser is not a partner or an employee, the investigator should make reasonable efforts to interview the alleged harasser.
  3. The alleged harasser(s) must be given the opportunity to respond to the specific allegations raised by the complainant. In some circumstances, the person who allegedly experienced the workplace harassment should be given a reasonable opportunity to reply.
  4. The investigator must interview any relevant witnesses employed XYZ Firm who may be identified by either the employee who allegedly experienced the workplace harassment, the alleged harasser(s) or as necessary to conduct a thorough investigation. The investigator must make reasonable efforts to interview any relevant witnesses who are not employed by XYZ Firm if there are any identified.
  5. The investigator must collect and review any relevant documents.
  6. The investigator must take appropriate notes and statements during interviews with the worker who allegedly experienced workplace harassment, the alleged harasser and any witnesses.
  7. The investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the person who allegedly experienced the workplace harassment, the response from the alleged harasser, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether workplace harassment was found or not.

1. **Results of the Investigation**

Within 10 days of the investigation being completed, the employee or person who allegedly experienced the workplace harassment and the alleged harasser, if he or she is an employee of XYZ, will be informed in writing of the results of the investigation and any corrective action taken or that will be taken by XYZ to address workplace harassment.

1. **Confidentiality**

Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect employees, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

While the investigation is on-going, the person who has allegedly experienced harassment, the alleged harasser(s) and any witnesses should not to discuss the incident or complaint or the investigation with each other or other employees or witnesses unless necessary to obtain advice about their rights. The investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation.

All records of the investigation will be kept confidential.

1. **Handling Complaints**

It may be necessary to take interim measures during the investigation, including having persons involved in the investigation to move workstations, or in the case of serious allegations, remain off work.

If the investigator(s) conclude that the harassment occurred, the harasser may be disciplined, up to and including termination of employment.

**RECORD KEEPING**

The **[designated person at the firm\*]** will keep records of the investigation including:

1. a copy of the complaint or details about the incident;
2. a record of the investigation including notes;
3. a copy of the investigation report (if any);
4. a summary of the results of the investigation that was provided to the employee or partner who allegedly experienced the workplace harassment and the alleged harasser, if a partner or employee of the XYZ;
5. a copy of any corrective action taken to address the complaint or incident of workplace harassment.

All records of the investigation will be kept confidential. The investigation documents, including this report should not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law.

Records will be kept for a minimum of one year after the conclusion of the investigation.

No one is to be penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment.

**ANNUAL TRAINING**

Each year (at a minimum), XYZ will review this policy and provide training on this policy.