



# Peel Law Association Harassment and Discrimination Policy

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## **PURPOSE**

Peel Law Association (“PLA”) is committed to providing and maintaining an environment based on respect for the dignity and rights of everyone. This document outlines our guiding principles, policy and procedure for preventing and addressing harassment and discrimination.

## **STATEMENT OF PRINCIPLES**

The following principles inform and guide this policy:

- Harassment and discrimination are serious issues that are demeaning to human dignity and are unacceptable in any environment, including one in which the equitable practice of law is encouraged.
- As a professional association, it is particularly important that we continue to uphold our fundamental commitments to equality and human rights.
- PLA’s employees, association members, Board members and others have the right to work and access PLA’s services and facilities in an environment that is free from harassment and discrimination.
- PLA will not tolerate harassment or discrimination against any employee, association member, Board member or others, and will strive to create an environment free from harassment and discrimination.
- PLA will act upon complaints of harassment and discrimination promptly and fairly, and with due regard for confidentiality.
- PLA prohibits reprisal or threats of reprisal against any of its employees, association members, or Board members who make use of this policy or participate in the investigation or resolution of a complaint under this policy.

## SCOPE OF THE POLICY

This policy applies to all employees, association members, members of the Board of Directors, and others as appropriate. It applies at all PLA facilities, in which someone is engaged in work-related activities. This includes, but is not limited to:

- the lounge;
- the robing room; and
- the library.

This policy also applies to situations in which an individual is harassed or discriminated against by third parties at the above facilities, although the available remedies may be constrained in this situation.

## DEFINITIONS

### 1. Discrimination

Discrimination includes any distinction, exclusion or preference based on the protected grounds in the Ontario *Human Rights Code*, which nullifies or impairs equality of opportunity in employment, equality in the terms and conditions of employment, or equality in terms of accessing PLA's facilities, services and resources.

The protected grounds of discrimination are:

- race, colour, ancestry, citizenship, ethnic origin or place of origin;
- creed (religion);
- age;
- sex (including pregnancy and breastfeeding);
- gender identity and gender expression;
- sexual orientation;
- family, marital (including same-sex partnership) status;
- disability or perceived disability; or
- a record of offences for which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked, or an offence in respect of any provincial enactment.

## **2. Sexual Harassment**

Sexual harassment includes conduct or comments of a sexual nature that the recipient does not welcome or that offend them. It also includes negative or inappropriate conduct or comments that are not necessarily sexual in nature, but which are directed at an individual because of their gender.

Some examples of sexual harassment are:

- sexual advances or demands that the recipient does not welcome or want;
- threats, punishment or denial of a benefit for refusing a sexual advance;
- offering a benefit in exchange for a sexual favour;
- leering (persistent sexual staring);
- displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic web sites or other electronic material;
- distributing sexually explicit e-mail messages or attachments such as pictures or video files;
- sexually suggestive or obscene comments or gestures;
- unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, clothing or sex;
- persistent, unwanted attention after a consensual relationship ends;
- physical contact of a sexual nature, such as touching or caressing; and
- sexual assault.

## **3. Gender-Based Discrimination and Harassment**

The Ontario Human Rights Commission describes gender-based discrimination and harassment as “any behaviour that polices and reinforces traditional heterosexual gender norms.” It can be considered a form of sexual harassment.

Gender-based harassment is often the result of subtle unconscious beliefs, biases and prejudices that can influence decisions and behaviour without necessarily involving the knowledge or intention of those involved.

## **4. Racial Discrimination and Harassment**

The Ontario Human Rights Commission describes racism as: “any distinction, conduct or action, whether intentional or not, but based on a person's race, which has the effect

of imposing burdens on an individual or group, not imposed upon others or which withholds or limits access to benefits available to other members of society”.

Racial discrimination and harassment can be overt or may reflect stereotypical attitudes or beliefs about race. It can also be systemic.

Some examples of racial harassment are:

- racial epithets, slurs or jokes;
- being subjected to racial name calling or nicknames;
- racial cartoons or graffiti;
- comments ridiculing individuals because of race-related characteristics;
- singling out an individual for teasing or jokes related to race, ancestry, place of origin or ethnic origin;
- being subjected to inappropriate references to racist organization; and
- circulating racially offensive jokes, pictures or cartoons by e-mail or having a racially offensive screensaver.

## **5. Discriminatory Harassment**

Discriminatory harassment includes comments or conduct based on the protected grounds in the Ontario *Human Rights Code*, which the recipient does not welcome or that offend them.

Some examples of discriminatory harassment include:

- offensive comments, jokes or behaviour that disparage or ridicule a person’s membership in one of the protected grounds, such as race, religion or sexual orientation;
- imitating a person’s accent, speech or mannerisms;
- persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children; or
- inappropriate comments or jokes about an individual’s age, sexual orientation, gender identity and gender expression.

Harassing comments or conduct can poison someone’s working environment, making it a hostile or uncomfortable place to work, even if the person is not being directly

targeted. This is commonly referred to as a ***poisoned working environment*** and it is also a form of harassment.

Some examples of actions that can create a poisoned work environment include:

- displaying offensive or sexual materials such as posters, pictures, calendars, web sites or screen savers;
- distributing offensive e-mail messages, or attachments such as pictures or video files;
- practical jokes that embarrass or insult someone; or
- jokes or insults that are offensive, racist or discriminatory in nature.

## **6. Stereotyping and Unconscious Bias**

PLA wishes to create a diverse and equal opportunity workplace where all our employees, association members and Board members are treated fairly and equally.

A challenge in achieving this goal is that people naturally develop biases which affect decision-making. This means that even when we are trying our best to treat everyone equally, someone's personal characteristics such as their sex, race, age or religion might be influencing our decisions unintentionally – and we might not even be aware of it.

This tendency to make biased judgments unintentionally, without realizing we're doing it, is called "unconscious bias" (or "implicit bias").

It's important to understand our biases so that we can control for them and, as much as possible, prevent them from affecting our decisions. This will help us treat our employees fairly and ensure we are hiring and promoting the best candidates, regardless of any irrelevant personal characteristics.

Having unconscious biases does not mean that someone hates or targets other groups of people and the good news is that we can learn to recognize our unconscious biases so that they don't affect our decisions.

The first step in combatting unconscious bias is simply to be aware of it. The more your unconscious biases become conscious, the more you can do to control them.

Here are some general strategies for combatting unconscious bias:

- Learn as much as possible about unconscious bias. The more you know, the easier it will be to recognize when it is happening to you.
- Before you make a decision that will impact someone else with whom you are interacting in a professional capacity, ask yourself why you are making that

decision. Try to separate objective reasons and facts from reasons that are based on feelings, instincts, or stereotypes.

- Play “devil’s advocate” against your own decision to see if you can defend it if it is challenged.
- Work on developing your empathy. Try to put yourself in the shoes of people who come from different personal backgrounds.

## 7. Workplace Harassment and Bullying

Workplace harassment is a health and safety issue that is covered under the *Occupational Health and Safety Act*. It defines **workplace harassment** 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.*

Workplace harassment may have some or all of the following components:

- it is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient’s psychological or physical integrity and has a lasting harmful effect;
- it is hostile, abusive or inappropriate;
- it affects the person’s dignity or psychological integrity; and
- it results in a poisoned work environment.

Some examples of workplace harassment are:

- verbally abusive behaviour such as yelling, insults, ridicule and name calling including remarks, jokes or innuendos that demean, ridicule, intimidate or offend;
- workplace pranks, vandalism, bullying and hazing;
- gossiping or spreading malicious rumours;
- excluding or ignoring someone, including persistent exclusion of a particular person from work-related social gatherings;
- persistently following someone or engaging in “stalking” behaviour, including on social media;
- a supervisor/manager undermining someone else’s efforts by setting impossible goals, with short deadlines and deliberately withholding information that would enable a person to do their job;



- a supervisor/manager providing only demeaning or trivial tasks in place of normal job duties;
- humiliating someone;
- sabotaging someone else's work;
- displaying or circulating offensive pictures or materials;
- offensive or intimidating phone calls or emails;
- a supervisor/manager impeding an individual's efforts at promotions or transfers for reasons that are not legitimate; and
- making false allegations about someone in memos or other work-related documents.

### ***What Isn't Harassment***

Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:

- measures to correct performance deficiencies, such as placing someone on a performance improvement plan;
- imposing discipline for workplace infractions; or
- requesting medical documents in support of an absence from work.

It also does not include normal workplace conflict that may occur between individuals, or differences of opinion between co-workers.

### ***The Test of Harassment***

It does not matter whether you intended to offend someone. The test of harassment is whether you *knew* or *should have known* that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case you must immediately stop that behaviour.

Although it is commonly the case, the harasser does not necessarily have to have power or authority over the recipient. Harassment can occur from co-worker to co-worker, member to employee, supervisor to employee and employee to supervisor.

## **PREVENTING HARASSMENT AND DISCRIMINATION**

It is our mutual responsibility to ensure that we create and maintain a harassment and discrimination-free workplace and facilities and that we address these behaviours and/or the threat of these behaviours from all possible sources (including association members, management, members of the Board of Directors, employees and strangers).

### **1. Peel Law Association's Commitment**

PLA will do its part by not tolerating or condoning harassment or discrimination in its facilities. This includes making everyone in our organization aware of what behaviour is and is not appropriate, assessing the risk of such behaviour, investigating complaints and imposing suitable corrective measures.

### **2. Duties of Leaders**

All administrators, managers, directors, and others in supervisory or leadership positions ("leaders") are required to be familiar with and to uphold this policy and procedure and to inform staff about its existence. Leaders are expected to assist in creating a harassment and discrimination-free environment and to immediately contact the Board of Directors if they receive a complaint of harassment or discrimination, or witness or become aware of harassing or discriminating behaviour.

### **3. Duties of All Employees and Members**

You must do your part by ensuring that your behaviour does not violate this policy and by fostering an environment based on respect, that is free of harassment and discrimination. You are also required to report any harassing or discriminating behaviour of which you become aware.

## **PROCEDURE FOR RESOLVING AND INVESTIGATING HARASSMENT AND DISCRIMINATION COMPLAINTS**

### **1. Informal Procedure**

When someone is engaging in behaviour that makes you uncomfortable, it is often helpful to tell the person to stop. Do so as soon as you receive any unwelcome comments or conduct. Although this may be difficult to do, telling the person you don't like their behaviour is often enough to stop it. However, if you are uncomfortable speaking directly to the person for any reason, you may wish to report it under the formal procedure below.

Some of the things you can say that might stop the behaviour include:

*"I don't want you to do that."*

*"Please stop doing or saying..."*

*"It makes me uncomfortable when you ..."*

*"I don't find it funny when you ..."*

If the harassment or discrimination continues after you have confronted the individual, you may want to provide them with a written statement of the situation. Include specific details of the behaviours you consider to be harassing or discriminating and your request that the offending behaviour stop. Provide details of the next steps you plan to take if the harassment or discrimination does not stop e.g., that you will file a formal complaint. Make sure you keep a copy of this statement for yourself.

It helps to keep a record of any incident(s) that you experience. This includes when the harassment or discrimination started, what happened, whether there were any witnesses and what was your response.

### **2. Formal Complaint Procedure**

You may report incidents of harassment/discrimination to the President of PLA. If the matter involves the President, you may report it to the Secretary of the Board of Directors. If the matter involves the President and Secretary, please report it to one of the Vice Presidents of the Board.

Please provide written information about the complaint, including the name of the person you believe is harassing or discriminating against you, the place, date and time of the incident(s), and the names of any possible witnesses.

It is important that we receive your complaint as soon as possible so that the problem doesn't escalate or happen again. Once we receive your complaint, we will initiate a formal investigation, if it is necessary and appropriate to do so.

Discrimination and harassment are serious matters. Therefore, even if you decide not to make a formal complaint, we may still need to investigate incidents we become aware of and take steps to prevent further harassment or discrimination. For example, we may need to continue with an investigation if the allegations are serious or if there have been previous complaints or incidents involving the respondent.

Please note that it is our policy not to investigate anonymous complaints unless there are extenuating circumstances.

### **3. Investigation Procedure**

PLA will commence an investigation as quickly as possible. We may choose to use either an internal or external investigator, depending on the nature of the complaint. Whether an internal or external investigator is used, PLA will ensure that the investigator is not the respondent, is not under the direct control of the respondent, and is able to conduct an objective investigation.

All employees, association members and members of the Board of Directors have a responsibility to co-operate in the investigation where applicable.

The investigation may include:

- interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations
- interviewing any witnesses that the investigator determines are relevant
- reviewing any related documentation
- making notes of the investigation and maintaining them in a confidential file

It is PLA's goal to complete investigations within 90 days after receiving a complaint, where possible. Investigations may take longer than where there are extenuating circumstances such as one of the parties being on leave or more than five witnesses.

Once the investigation is complete, the investigator will prepare a report of the findings and conclusion as to whether discrimination or harassment has occurred. The report will be provided to the President of the Board of Directors unless the President is one of the parties, in which case it will be provided to the Vice-Presidents. A summary of the findings will be provided to the complainant and respondent in writing, within 10 days of the investigation being concluded.

#### **4. Confidentiality of Complaints and Investigations**

We recognize the sensitive nature of harassment and discrimination complaints and we will keep all complaints confidential, to the extent that we are able to do so. We will only release as much information as is necessary to investigate and respond to the complaint or situation (e.g. disciplinary action) or if required to do so by law.

Out of respect for the relevant individuals, it is essential that the complainant, respondent, witnesses and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterwards.

#### **5. Corrective Action**

The President and/or Board of Directors will determine what action should be taken as a result of the investigation.

If a finding of harassment or discrimination is made, PLA will take appropriate corrective measures, regardless of the respondent's seniority or position in PLA. Corrective measures may include one or more of the following:

1. for any Respondent:
  - a. a written warning or caution;
  - b. a formal reprimand;
  - c. referral for counseling (sensitivity training) or anger management training,
2. if the respondent is a non-member with a right to use the Law Library:
  - a. suspension of the right to use the law library;
  - b. report to the Law Society of Ontario, for a breach of the Rules of Professional Conduct;
3. if the respondent is a Member of the PLA:
  - a. suspension of some or all of their rights and privileges of Membership;

- b. report to the Law Society of Ontario, for a breach of the Rules of Professional Conduct;
4. if the respondent is a Director of the PLA:  
suspension or removal as Director
5. if the respondent is a volunteer with the PLA:  
suspension or termination of arrangement with PLA
6. if the respondent is an employee of the PLA
  - a. suspension, with or without pay;
  - b. termination with or without cause;
  - c. demotion or denial of a promotion;
  - d. reassignment or transfer or change to duties;
  - e. financial penalties such as the denial of a bonus or performance related salary increase;
  - f. other appropriate disciplinary action
7. if the respondent is a Director, volunteer, or employee of the PLA  
referral for training, such as anger management, conflict management, supervisory skills training, attendance at educational programs on workplace respect, or other such programs.

If there is insufficient evidence to substantiate the complaint, corrective measures will not be taken.

If you make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline. PLA will, however, discipline or terminate anyone who brings a false and malicious complaint.

## **6. Freedom from Retaliation**

PLA will not tolerate retaliations, taunts or threats against anyone who complains about harassment or discrimination or takes part in an investigation. Any person who taunts, retaliates against or threatens anyone in relation to a harassment or discrimination complaint may be disciplined or terminated.