

# By-Law No. 11

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## DISCRIMINATION AND HARASSMENT BY-LAW

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Passed by the Board of Directors on the 25<sup>th</sup> day of  
January 2012

Confirmed by Hazelburn membership on the 18<sup>th</sup> day  
of April, 2012

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# Discrimination and Harassment By-Law

## 1. Statement of Intent

All co-op staff and members should enjoy a workplace that is free from discrimination and harassment as defined in this by-law.

## 2. Purpose of By-law

The purpose of this by-law is to

- define discrimination and harassment;
- set out how the co-op will respond to reports of discrimination or harassment in the workplace;
- identify roles and duties when discrimination or harassment take place in the workplace.

## 3. Policy

### a. Discrimination

It is the policy of the co-op to recognize the worth of each of its members and members of its workforce and to provide for equal rights and opportunities without discrimination. The co-op will not practice discrimination in its practices by reason of:

- race
- creed
- colour
- religion
- nationality
- ancestry
- place of origin
- native language (for staff, subject to ability to perform the core duties of the job)
- age
- sex
- sexual orientation
- marital status
- family status
- disability (for staff, subject to being able to perform the core duties of the job)
- record of offenses (subject to exceptions available at law)
- political affiliation
- gender
- gender identity
- or any other ground prohibited by law.

## **b. Harassment**

Employees and members of the co-op have the right to freedom of harassment by other employees, members of the Board of Directors and members of the co-op generally. Harassment means:

(a) pattern of comment or conduct based on one or more of the following grounds that is known or ought reasonably to be known to be unwelcome:

- race
- creed
- colour
- religion
- nationality
- ancestry
- place of origin
- native language (for staff, subject to ability to perform the core duties of the job)
- age
- sex
- sexual orientation
- marital status
- family status
- disability (for staff, subject to being able to perform the core duties of the job)
- record of offenses (subject to exceptions available at law)
- political affiliation
- gender
- gender identity
- or any other ground prohibited by law.

(b) sexual harassment as defined below;

(c) any of the following behaviour, whether or not related to the grounds listed in (a) above:

- verbal abuse or threats, unwelcome remarks, jokes, innuendo or taunting;
- displaying pornographic or other offensive or derogatory images;
- practical jokes causing awkwardness or embarrassment;
- unwelcome invitations or requests, whether indirect or explicit;
- intimidation;
- condescending or patronizing behaviour
- undermining a person's self-respect;
- unnecessary physical contact such as patting or pinching;
- physical assault.

## **c. Sexual Harassment**

Sexual harassment includes:

- unwelcome comment or conduct with sexual overtones;
- leering or unwelcome gestures;
- a sexual advance or solicitation made by a person who is in a position to grant or deny a benefit to another;
- threat of or actual reprisal for rejecting his or her advance by a person in a position to grant or deny a benefit to another person.
- Sexual harassment is coercive or one-sided. Relationships existing with the express consent of both parties will not constitute sexual harassment.

## **4. Rights and Duties**

**a. Rights**

Staff and members have a right

- to file a complaint without fear of retaliation;
- to choose a person to be with them during meetings about their complaint. This can be a lawyer or other person;
- to be told about the process for looking into the complaint;
- to get information about the review of their complaint;
- to get information about the action taken by the co-op because of the complaint;
- to be treated fairly while the co-op is looking into the complaint.

**b. Duties**

- Staff and members who believe they have been discriminated against or harassed have a duty to communicate clearly to any person who they believe has discriminated against or harassed them and to say that the behaviour was unwelcome, unless it is unreasonable to expect them to do so.
- Staff and members have a duty to report any incidents of harassment or discrimination they become aware of, even if they are not personally involved.
- Staff and members who file a complaint have a duty:
  - to report their complaint to their supervisor, staff liaison officer, ombudsperson or board member as appropriate;
  - to co-operate with the people who are looking into the complaint.

**c. Rights of the Person Accused of Discrimination or Harassment**

A person who has a complaint filed against him/her has the right:

- to be told that a complaint has been filed;
- to be told about the process for looking into the complaint;
- to get a copy of the statement setting out the complaint and to have the chance to respond;
- to choose a person to be with them during meetings about the complaint. This can be a lawyer or other person;
- to be treated fairly during the process of looking into the complaint.

**d. Duties of the Person Accused of Discrimination or Harassment**

Anyone accused of discrimination or harassment has a duty to co-operate with the person who is looking into the complaint and to co-operate with the co-op in dealing with the complaint.

## **5. Making a Complaint**

Staff or members must outline their complaint in writing and give it to their supervisor or staff liaison officer, co-op manager, board member or ombudsperson, as appropriate. If the complaint is about discrimination or harassment by the supervisor, co-op manager, the staff or member should give the written complaint to the co-op president or another board member.

## **6. Time Limits**

Complaints under this section should be made as soon as possible after the alleged event. Any delay in making a complaint may make the investigation more difficult.

## 7. Complaint Review Process

- (a) The co-op must respond to every complaint without delay.
- (b) All complaints will be reported to the board as soon as practicable.
- (c) The board will appoint one or two individuals to investigate the complaint, ensuring that they give the complainant and the accused person opportunities to be interviewed.
- (d) If the complaint raises a conflict of interest with any of the individuals who would be assigned to investigate the complaint and if no neutral individual can be found within the co-op, the board must appoint a neutral person from outside the co-op to look into the complaint.
- (e) The individual(s) tasked with investigating the complaint will interview, in person where possible, all concerned individuals, including any witnesses that may provide information with respect to the allegation. All meetings should take place as soon as possible and no later than a week after the investigator(s) has(ve) been appointed.
- (f) The individual(s) tasked to investigate the complaint, may, where appropriate, resolve the issues informally where all parties, including the board, consent to the resolution.
- (g) The individual(s) tasked with investigating the allegation will make a fulsome report to the board of directors within 3 days of the completion of the investigation including recommendations on how to resolve the conflict.
- (h) The board will consider the report.
- (i) The board may, at its own discretion, choose not to accept the investigator(s) report and conduct its own investigation.
- (j) If there is evidence of discrimination or harassment the board will take appropriate action. In determining the action to take, the board will consider the seriousness of the acts of discrimination or harassment. Possible actions include:
  - to take no action, if the board is satisfied that the issue has been resolved and that steps have been taken to rectify the situation;
  - a letter of apology or a performance agreement, if the parties and the board agree to these;
  - the appointment of mediator between the staff member and the discriminator or harasser,
  - a formal reprimand given to the individual and a letter recording the reprimand to be placed in the individual's file;
  - if the discriminator or harasser is a director or officer of the co-op, the board may terminate or suspend the directorship of the officer. The officer may seek a review of the decision at the general ;
  - reprimand, suspension or dismissal if the discriminator or harasser is an employee;
  - if the discriminator or harasser is a member of the co-op, the board may chose to revoke membership and evict them. However in determining what to do, the board will be guided by the eviction process.

## 8. Privacy

As much as possible, the co-op board will keep all information relating to the complaint confidential. This will protect both the person making the complaint and the person they are complaining about. However, in order to investigate the complaint, the person conducting the investigation may have to interview people in order to get at the facts. As far as possible in doing these interviews, that person will try to protect the identity of those involved, but this will not always be possible. It also has to be recognized that information may become generally available as a result of the investigation. For instance, if the co-op dismisses someone because the co-op considers them guilty of harassment and that person takes the co-op to court, the details would become part of the public record. If the co-op board evicts someone and that person appeals to the membership, then the membership will have the background information. The co-op will only disclose information on a need to know basis.

## 9. Action by Co-operative

While the complaint is being looked into, the co-op will:

- make best efforts to limit contact between the staff or member who made the complaint and the person accused of discrimination or harassment;
- make sure the staff or member gets whatever help they need to deal with any stress they may be feeling (i.e. refer to the Employee Assistance Program or community counselling services).

## 10. Other Legal Rights

This by-law does not in any way limit the right of staff or members to take any other legal action resulting from discrimination or harassment including filing a complaint with the provincial Human Rights Commission.

C E R T I F I E D to be a true copy of By-law No. 11 of , passed by the Board of Directors at a meeting held on the 25<sup>th</sup> day of January, 2012, and confirmed by a two-thirds vote at a meeting of members held on the 18<sup>th</sup> day of April, 2012.

\_\_\_\_\_ c/s  
Secretary