

## POSITIVE WORKPLACE POLICY AND IMPLEMENTATION PROGRAM

Review date	Action	Approval date
June 4, 2020	First draft for review by the CAC Board of Directors. Policy date: May 25, 2020	June 4, 2020
Review cycle	Insert expected review cycle	
Every year	Board Review in March 2021, approval June 2021	

### 1. Definitions

1.1 “Discrimination” is unfair or improper behaviour, whether intentional or not, that results in differential treatment of one or more employees, that affects working conditions, or employment decisions, or the work environment, and that is related to one or more of any grounds of discrimination prohibited by human rights legislation, including but not limited to:

- race or perceived race;
- ancestry, citizenship, nationality or national origin, place of origin, colour, ethnic or linguistic background or origin, including aboriginal origin;
- religion or creed or religious belief, association or activity;
- political belief, association, convictions or activity;
- age;
- sex, including sex-determined characteristics such as pregnancy, the possibility of pregnancy and circumstances related to pregnancy;
- sexual orientation;
- gender identity and gender expression;
- marital status (including single status), family status, civil status, or family association
- social condition or disadvantage;
- physical or mental disability, or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device, as well as disfigurement and any irrational fear of contracting an illness or disease;
- criminal charges or criminal record;
- source of income or receipt of public assistance; and
- actual or presumed association, relationship or dealings with another individual or class of individuals identified by any of the aforementioned grounds.

An individual does not have to intend to discriminate for the behaviour to be discrimination. It is enough if the individual knew or ought reasonably to have known that their behaviour would be inappropriate or unwelcome.

Examples of conduct that may be considered discrimination include but are not limited to the following:

- derogatory comments and other vocal activity;
- stereotyping (assuming an employee has certain traits, qualities or beliefs);
- racial, ethnic, or religious jokes, slurs, nicknames, or mimicry;
- practical jokes that cause awkwardness or embarrassment;
- persisting with comments or jokes after becoming aware that the behaviour is unwelcome;
- offering or withholding favours or employment benefits such as promotions, favourable evaluations, favourable assigned duties or shifts, conditioned on or related to a characteristic protected under any prohibited ground of discrimination; and
- any unwanted physical touching, blocking, or impeding movements.

- 1.2 “Employees” means all employees (full-time, part-time, permanent, fixed-term, casual or student) of the Coaching Association of Canada (“CAC”), volunteers, managers, administrators, committee members, consultants, contractors and other providers who may provide services in the CAC workplace or to CAC, and all members of the CAC Board of Directors.
- 1.3 “Workplace Harassment” means engaging in a course of vexatious conduct or comment in a workplace that the person knew or ought reasonably to have known would be unwelcome and inappropriate or otherwise offensive to a person or a group of people. **Reasonable action taken by an employer or manager relating to the management and direction of employees or the workplace is not workplace harassment.**

Examples of conduct that may be considered workplace harassment include but are not limited to the following:

- Bullying;
- Workplace pranks, vandalism, bullying or hazing;
- Repeated offensive or intimidating phone calls or emails;
- Inappropriate sexual touching, advances, suggestions or requests;
- Displaying or circulating offensive pictures, photographs or materials in printed or electronic form;
- Psychological abuse;
- Excluding or ignoring someone, including persistent exclusion of a person from work-related social gatherings;
- Deliberately withholding information that would enable a person to do his or her job, perform or train;
- Sabotaging someone else’s work or performance;
- Gossiping or spreading malicious rumours;
- Intimidating words or conduct (offensive jokes or innuendos); and
- Words or actions which are known or should reasonably be known to be offensive, embarrassing, humiliating, or demeaning.

Workplace Harassment includes:

- (a) “Physical Maltreatment”, which means: Any pattern or a single serious incident of deliberate conduct that has the potential to be harmful to the physical well-being of the employee. Physical Maltreatment includes, without limitation, contact or non-contact infliction of physical harm. Physical Maltreatment is determined by the objective behaviour, not whether harm is intended or results from the behaviour; and
- (b) “Psychological Maltreatment”, which means: Any pattern or a single serious incident of deliberate conduct that has the potential to be harmful to the psychological well-being of the employee. Psychological Maltreatment includes, without limitation, verbal conduct, non-assaultive physical conduct, and conduct that denies attention or support. Psychological Maltreatment is determined by the objective behaviour, not whether harm is intended or results from the behaviour.

Workplace Harassment includes “Sexual Harassment”, which means:

- (a) engaging in a course of vexatious comment or conduct against an employee 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
- (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 employee and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual Harassment includes “Sexual Maltreatment”, which means: Any act targeting a person’s sexuality, gender identity or expression, that is committed, threatened or attempted against a person.

Examples of conduct that may be considered sexual harassment include but are not limited to the following:

- Sexist jokes;
- Threats, punishment, or denial of a benefit for refusing a sexual advance;

- Offering a benefit in exchange for a sexual favour;
- Demanding hugs;
- Bragging about sexual ability;
- Leering (persistent sexual staring);
- Sexual assault;
- Display of sexually offensive material;
- Distributing sexually explicit messages or attachments such as pictures or video files;
- Sexually degrading words used to describe an individual;
- Unwelcome inquiries into or comments about an individual's gender identity or physical appearance;
- Inquiries or comments about an individual's sex life;
- Persistent, unwanted attention after a consensual relationship ends;
- Persistent unwelcome sexual flirtations, advances, or propositions; and
- Persistent unwanted contact

Displaying or sharing pornography in the workplace is a form of sexual harassment. Nobody is ever allowed to use CAC's workplace, equipment, systems or resources to access, create, send, display, download or store obscene and pornographic images or language, nor any form of sexually explicit or harassing images, words or any other material. CAC reserves the right to monitor equipment and systems for various reasons including for compliance with this Policy. Users of CAC's equipment and systems are reminded that they can have no expectation of privacy, even if passwords and other security devices are used, and even though CAC permits reasonable personal use of its equipment and systems.

A reasonable action taken by CAC or a manager relating to the management and direction of employees or the workplace is not workplace harassment. When a manager with the authority to do so gives appropriate guidance, feedback or instruction in the workplace, or take appropriate disciplinary action, that is not workplace harassment. Similarly, unless improperly motivated, when a manager changes work assignments, scheduling, inspections, implementation of a dress code, and other routine workplace actions do not qualify as workplace harassment.

1.4 "Workplace Violence" means:

- (a) the exercise of physical force by a person against an employee, in a workplace, that causes or could cause physical injury to the employee;
- (b) an attempt to exercise physical force against an employee, in a workplace, that could cause physical injury to the employee; or
- (c) a statement or behaviour that it is reasonable for an employee to interpret as a threat to exercise physical force against the employee, in a workplace, that could cause physical injury to the employee.

Examples of conduct that would be considered workplace violence include:

- Prolonged staring in a hostile manner, shouting, blocking or impeding movement, or other aggressive behaviour
- Verbally threatening to attack an employee
- Threatening gestures (e.g. shaking fists, throat-slitting or shooting gestures)
- Leaving threatening notes at or sending threatening e-mails to the workplace
- Hitting or trying to hit an employee, including acts such as slapping, poking, kicking, pinching, grabbing and pushing an employee
- Throwing an object at an employee
- Destroying CAC's or another employee's property in the workplace
- Violence or threat of violence against an employee by a domestic or intimate partner that is not an employee
- Sexual violence against an employee
- Communications that endorse the use of any kind of weapons or violence
- Stalking over a period of time, however short, that includes any combination of physical presence, telephone calls, emails, and any other type of contact or communications sent or made by any means

1.5 "Workplace" includes any land, premises, location or thing at, upon, in or near which an employee works. For the purposes of this Policy, "Workplace" includes any place where the business of the organization is being carried out, and other locations and situations such as during business travel, work-related social

gatherings or other locations where the prohibited behaviour might have a subsequent impact on the work relationship, environment or performance.

Examples of workplace include, but are not limited to:

- the office
- work-related social functions
- work assignments outside the office and work-related travel
- work-related conferences or training sessions
- in some cases, online spaces

1.6 “Domestic Violence” means a pattern of behavior used by one person to gain power and control over another with whom he/she has or has had an intimate relationship. The perpetrator’s tactics can be physical, psychological, sexual, economic and emotional. Examples of domestic violence include stalking, physical violence, emotional and psychological intimidation and verbal abuse. This Policy applies where the perpetrator is someone acting as a CAC employee or representative, or where the victim is exposed to the conduct because of their work at CAC, or where there is a reasonable basis to believe that violence may occur against the victim or others either at the workplace or at any work-related event.

## **2. Overview of Policy and Program**

### **2.1 Purpose**

- (a) To promote, establish, and maintain a positive workplace environment that is free from discrimination, harassment and violence and that treats every individual with dignity and respect.
- (b) To provide procedures for investigating and resolving complaints of discrimination, violence or harassment, as well as remedying situations when instances of discrimination, violence or harassment occur.
- (c) To meet the Coaching Association of Canada’s (hereinafter “CAC”) ethical and legal obligations to provide a discrimination, violence and harassment-free workplace under applicable legislation and the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (“UCCMS”).

### **2.2 The Policy**

CAC believes that every individual has the right to work and provide services in a professional atmosphere that promotes equal opportunity and is free from all forms of harassment and violence.

It is the policy of CAC to prohibit any form of discrimination, violence and harassment based on race or perceived race; ancestry; nationality or national origin; citizenship; place of origin; colour; ethnic or linguistic background or origin (including aboriginal origin), religion, creed or religious belief, association or activity; political belief, association, convictions or activity; age; sex (including sex-determined characteristics such as pregnancy, the possibility of pregnancy and circumstances related to pregnancy); sexual orientation; gender identity; gender expression; marital status; family status; family affiliation; civil status; social condition or disadvantage; physical or mental disability or related characteristics or circumstances (including reliance on a service animal, a wheelchair, or any other remedial appliance or device); disfigurement; an irrational fear of contracting an illness or disease; criminal charges or criminal record; source of income; receipt of public assistance, actual or presumed association, relationship or dealings with another individual or class of individuals identified by any of the aforementioned grounds, or any other prohibited ground of discrimination in accordance with applicable human rights legislation.

CAC will not tolerate, ignore, or condone workplace discrimination, harassment, violence and any form of maltreatment by or against any employee (as defined below).

CAC considers workplace discrimination, harassment and violence a very serious offense that may result in disciplinary and remedial action up to and including termination of employment or cancellation of a contract. A violation of this Policy may result in CAC contacting law enforcement officials or taking legal action where necessary.

Every individual covered by this Policy has a responsibility to help promote a safe workplace environment. This means not engaging in, allowing, condoning, or ignoring behaviour that violates this Policy. Every individual covered by this Policy also has a responsibility to comply with and support this Policy and Program.

The provisions of this Policy are intended to protect the safety of all employees, and are in no way intended to infringe upon an employee's privacy. The primary goal of this Policy and Program is to encourage an open, ongoing dialogue with the affected employees, and those within CAC who need to know, so that CAC can take reasonable steps to protect workplace safety. CAC's goal is to handle all situations with the utmost sensitivity to the particular situation, while meeting the goal of workplace safety and security.

### 2.3 The Implementation Program

The Implementation Program implements this Policy and includes:

- measures and procedures to protect employees from workplace violence, a means of summoning immediate assistance and a process for employees to report incidents, or raise concerns;
- measures and procedures for employees to report incidents of workplace discrimination, harassment or violence;
- the manner in which incidents or complaints of workplace discrimination, harassment or violence will be investigated and dealt with;
- the manner in which information obtained about an incident or complaint of workplace discrimination, harassment or violence, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law; and
- the manner in which an employee who has allegedly experienced workplace discrimination, harassment or violence and the alleged harasser, if they are an employee of the employer, will be informed of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.

Every employee covered by this Policy must work in compliance with this Policy and the Implementation Program.

### 3. **Scope of Policy**

This Positive Workplace Policy applies to any behaviour and acts of harassment, discrimination or violence that occur at the CAC workplace and that are perpetrated against or by any employees, as defined.

To be clear, this Policy also applies to consumers and clients utilizing the services provided by CAC, suppliers, and members of the public whose behaviour is directed at an employee, and occurs at the CAC workplace or during the course of any CAC-related business, activities and events, including, but not limited to, conferences, travel associated with the CAC's activities, the CAC's office environment, and any meetings.

This Policy also applies to behaviour occurring outside of those situations, when the behaviour is initiated by or directed at individuals covered by this Policy, and the behaviour adversely affects the CAC employee, its workplace environment or working relationships, and is detrimental to the image and reputation of the CAC. Such applicability will be determined by the CAC at its sole discretion.

#### **IMPORTANT NOTE:**

This Positive Workplace Policy and Program are intended to help CAC meet its workplace violence and harassment legal responsibilities under applicable occupational health and safety (OH&S) legislation.

CAC recognizes that some of the behaviours set out in this Positive Workplace Policy and Program could also be addressed in the CAC's Code of Conduct and Ethics. Anyone who wishes to report incidents of "Maltreatment" or behaviour that occurred outside of the CAC workplace should follow the reporting procedures under the CAC Code of Conduct.

Any complaint that is **workplace-related** must be reported under this Positive Workplace Policy and Program. Any such complaint that was erroneously reported under the CAC Code of Conduct and Ethics will be addressed under this Positive Workplace Policy and Program, as the CAC may in its absolute discretion decide.

#### 4. Roles and Responsibilities

Employees have a responsibility to:

- act respectfully toward other individuals while conducting work-related activities;
- be familiar with and attend all training for this Positive Workplace Policy and Implementation Program;
- report to the Chief Operating Officer concerns, incidents and/or knowledge of workplace discrimination, violence or harassment, including threats; and
- follow the measures and procedures set out in this Positive Workplace Policy and Implementation Program

Managers have a responsibility to:

- promote a discrimination, violence and harassment-free workplace;
- adhere to and attend all training for this harassment and violence in the Positive Workplace Policy and Implementation Program;
- ensure that measures and procedures set out in CAC's Implementation Program are followed by employees; and
- ensure employees have received the necessary information and instruction to protect themselves from risks of workplace violence.

Executive Management has a responsibility to:

- promote a discrimination, violence and harassment-free workplace;
- ensure employees are provided with information and instruction with respect to the prevention of workplace discrimination, violence and harassment;
- review the Positive Workplace and Implementation Program and procedures at least once annually, or as often as is necessary to address any gaps or deficiencies identified as a result of an investigation; and
- investigate and deal with all concerns, complaints, or incidents of workplace discrimination, violence or harassment in a fair and timely manner while respecting employees' privacy as much as possible.

#### 5. Safety Measures

CAC reserves the right to take any measures it deems necessary and lawful for the protection of employees. This includes but is not limited to:

- establishing any rule or practice required to promote a violence-free work environment;
- disclosing, as legally required and limited, such information as is necessary to equip persons to avoid risk and maintain their personal safety and security;
- barring or limiting access to the workplace, to certain persons;
- requiring any visitor or employee to permit a search of coats, bags, etc. before granting entry to the workplace;
- establishing any access protocols, rules, badges, limitations or restrictions deemed necessary, generally or specifically;
- declining to do business with any outside organization that fails to comply with appropriate measures to ensure the safety and security of our employees;
- accessing outside expert assistance in the management of situations, and the necessary disclosure of information to those parties; and
- reporting any circumstance or incident to legal authorities.

#### 6. Assessing Perceived Risk of Violence

CAC will conduct a periodic review of working conditions to determine if and where employees may be at risk of violence while working. This will be conducted annually or more often on an as-needed basis, in conjunction with our Joint Health & Safety Committee.

Each employee is required to report any instance of workplace violence, be it a perceived threat, an attempt, or the actual use of physical force that might cause injury to an employee to the Chief Operating Officer. Employees shall follow the Reporting Procedures set out below.

- (a) If an employee is dealing with someone known to have a history of violent behaviour, the employee should raise this concern with the Chief Operating Officer so that the situation can be assessed.
- (b) CAC disapproves of violence against anybody in any form, whether as an act of workplace violence or in any employee's personal life. CAC recognizes that domestic violence is a crime that may, in some cases, pose a risk to others at the workplace. CAC is committed to highlighting the awareness of domestic violence and providing guidance for management and employees in addressing these issues in the workplace. Victims of domestic violence are urged to seek confidential help from CAC; other employees who know or believe an employee is suffering this form of abuse, are expected to report it to the Chief Operating Officer.
- (c) Reports of workplace violence or suspected domestic violence, and concerns about persons with a violent history will be kept as confidential as possible. CAC shall take every reasonable measure to protect witnesses, complainants and victims from further improper behaviour in the workplace.
- (d) When in doubt, or if in need of additional information, employees are urged to report their concerns so that the Chief Operating Officer can advise and assist.

## **7. Warning Signs of Potential Violence**

Each person has a duty to be alert for signs of potential violence before they arise.

Certain circumstances or indicators may be accurate signs of a potentially violent situation:

- Verbal indicators: an angry or threatening tone; unreasonable demands; incoherent or irrational statements; a discussion of weapons or violence; profanity, shouting, screaming; degrading, lewd or other inappropriate comments.
- Physical indicators: clenching of fists or jaw; gripping objects tightly; nervous pacing or restlessness; slurred speech or other signs of possible impaired status; dramatic changes in appearance, demeanour or habits; violent gestures.
- Person under stress: if a person has suffered or is undergoing a high level of stress, due to some personal or work circumstance, that may elevate the likelihood of inappropriate conduct.

### Warning Signs of Potential Domestic Violence:

- (a) Domestic violence against an employee can occur in the workplace. Occupational health and safety (OH&S) legislation requires that this risk be controlled.
- (b) Each person has a duty to be alert for signs that an employee may be suffering domestic violence. Indicators may include visible signs of injury, change in attendance or absence patterns, changes in behaviour.
- (c) This is a sensitive and delicate issue. If it is suspected that an employee is suffering from domestic violence and the subject cannot be raised comfortably with that person, you are advised to discuss it on a confidential basis with the Chief Operating Officer.

## **8. Procedures in Violent Situations**

Where any person believes violence is imminent or is experiencing violence, they are to:

- do nothing to put themselves in further risk;
- withdraw from the situation, if possible;

- inform employees or others nearby of the situation, if possible;
- call 9-1-1 immediately where the risk cannot be avoided or where the situation requires immediate attention; and
- report pursuant to the Incident Reporting Procedures below.

Employees have the right to refuse work if they have reason to believe that workplace violence is likely to endanger them. For any questions about an employee's right to refuse to work on these grounds, or if an employee wishes to invoke that right, please contact a manager or the Chief Operating Officer.

## 9. Incident Reporting

### 9.1 General

In the event that an employee is either directly affected by or witness to any workplace violence, it is imperative for the safety of all CAC's employees that the incident be reported promptly.

If any visitor to the CAC workplace is seen with a weapon (or is known to possess one), makes a verbal threat or assault against an employee or another individual, employee witnesses are required to immediately contact the police, emergency response services, their immediate manager and the Chief Operating Officer.

In the event of a violent, emergency or life-threatening situation, 9-1-1 should be called immediately.

### 9.2 Reporting Procedure: Incident of Workplace Violence that Results in Physical Injury to the Employee

#### Responsibilities of the Employee:

- If physically injured, the employee should obtain appropriate first aid or medical attention after the incident of workplace violence.
- Report the incident to the employee's manager or the Chief Operating Officer immediately or as soon as possible.
- Inform the employee's manager or the Chief Operating Officer, if the employee subsequently receives medical attention or loses time from work due to the incident of workplace violence.

#### Responsibilities of Management:

- Advise employees to seek medical attention when required.
- Provide transportation to an appropriate medical facility if an injured employee requires more than first aid. If necessary, assign someone to accompany the injured employee.
- Investigate all reported incidents of violence or threats of violence in accordance with this Policy and Program and determine the cause of the incident.
- Take immediate action to secure the situation and restore employee safety.
- Visit the scene of an incident as soon as possible.
- Examine the workplace for security risk factors associated with the incident, including previous reports of inappropriate behavior by the perpetrator.
- Immediately notify the Ministry of Labour ("MOL") and the police, if an incident of workplace violence results in a critical injury or fatality or if deemed appropriate.
- Send a written report to the MOL within 48 hours of the fatality or critical injury.
- Provide written notice to the MOL, within 4 days, (only upon request of MOL) if an employee requires medical attention because of an incident of workplace violence.

### 9.3 Reporting Procedure: Complaints and Threats of Workplace Discrimination, Harassment and Violence

The following outlines the procedures that will generally apply when a complaint relating to discriminatory conduct, harassment or violence has been made. CAC, however, reserves the right to modify any such procedures, as it deems appropriate, in order to achieve the goals of this Policy and comply with applicable legislation.

#### Informal Reporting Process:

The following steps are recommendations intended for employees who have been subjected to workplace discrimination, violence or harassment or who have witnessed workplace discrimination, violence or



harassment. These steps are not pre-conditions for filing a formal complaint. At any time, an employee can contact their manager for advice and/or to file a formal complaint.

- (i) Any employee who is experiencing workplace discrimination, violence or harassment should not wait until a situation becomes intolerable. Sometimes, the person behaving unacceptably may not realize that their behaviour is offensive or unwanted and, in such cases, the misunderstanding can be cleared up quickly.
- (ii) It is recognized that the use of formal procedures can be daunting or counter-productive for both parties. In many cases, drawing early and informal attention to the matter giving rise to workplace discrimination, violence or harassment can fully resolve the situation. Employees should try wherever possible to resolve the matter themselves, seeking support if they consider that they need it.
- (iii) As soon as possible after the incident(s), the employee should take one or more of the following courses of action:
  1. Commence a record or diary of any incidents or workplace discrimination, violence or harassment as follows:
    - date and time of incident(s);
    - place;
    - name of person alleged to have been harassing or threatening the employee with workplace discrimination, harassment or violence;
    - details of what happened/was said;
    - names of any witnesses;
    - how they felt;
    - action taken (if any); and
    - copies of any documents that may be relevant, e.g., a letter or a note, copy of an email.
  2. Speak to the person and explain clearly that their behaviour is offensive and that it should stop.
  3. If the employee feels unable to speak to the person or, if having spoken to them the behaviour persists, the employee should consider writing to the individual concerned, in the same terms, and keep a copy of the correspondence.
- (iv) If informal attempts at resolution fail, or if the workplace discrimination, violence or harassment is potentially of such a serious nature as to require formal action, the employee may initiate a formal complaint, which will be dealt with in the next section of this procedure.

#### Formal Reporting Process:

The employee must report incidents of workplace discrimination, violence, harassment, threats or complaints to the Chief Operating Officer. Note that where the Chief Operating Officer forms part of the report, the employee should direct the report to the Chief Executive Officer throughout. Similarly, if the Chief Executive Officer forms part of the report, the employee may direct the report to the CAC Chair of the Board of Directors.

The incident or complaint and its effects should be explained verbally or in writing. CAC reserves the right to request that complaints be made in writing by the Complainant.

If an employee reports a concern or incident or makes a complaint (informal or formal), the employee has the right:

- to make the report or complaint and to obtain a fair and timely investigation of the report or complaint without fear of retaliation.
- to be represented or accompanied by another (uninvolved) individual of your choice (including legal counsel) at any stage in the process.

Whether an informal or formal report or complaint is made against an employee, the employee has the right:

- to be informed in a timely way once a report or complaint has been made.
- to be provided with a written summary of the allegation(s).
- to be afforded the opportunity to respond to the report or complaint.
- to be represented or accompanied by another (uninvolved) individual of your choice (including legal counsel) at any stage in the process.

### Third Party Ombudsman

As an alternative to first contacting the Chief Operating Officer, Chief Executive Officer or the CAC Board of Directors, employees may choose to contact a Third Party Ombudsman.

CAC has contracted with a neutral third party organization which is available to employees who would prefer to seek advice and counsel outside the organization. To ensure independence, the Third Party Ombudsman has no other official duties or roles within CAC. This confidential service provides a safe alternative for employees to voice their concerns.

The Third Party Ombudsman reports directly to the Chair of the Board of Directors and has no responsibility to report any matters to CAC's Management.

The Third Party Ombudsman will receive an employee's complaint and, with the consent of the employee, attempt to resolve it by seeking an equitable solution between the Complainant and CAC. The Third Party Ombudsman works cooperatively with both sides to reach a settlement but has no authority to finalize a settlement.

As of April 2020, the Third Party Ombudsman can be contacted at: [OmbudsOffice@sportlaw.ca](mailto:OmbudsOffice@sportlaw.ca).

Employees are expected to use their judgment in deciding whether to use the informal or formal process, and in determining whether their complaint should be brought to the attention of the Chief Operating Officer (or designated alternate) or to the Third Party Ombudsman.

## **10. Investigations**

An investigator designated by the Chief Operating Officer will be responsible for investigating all complaints of workplace discrimination, harassment or violence. This investigator may be an unbiased internal party or an outside third party depending on the circumstances of the complaint. Whether internal or external, the investigator will have no interest in the outcome of the investigation and will not be a decision-maker.

The investigation will be conducted as quickly as possible, given the circumstances of the case, and will be completed as soon as practicable, but normally within 90 days. Should it not be practicable to complete the investigation within one month, the investigator will keep both the Complainant and the person against whom the workplace discrimination, violence or harassment is alleged informed of progress.

The investigator will outline the steps of the investigation process, what the investigation will cover, the timeframe of the investigation, what solutions or results are possible, and who will make the final decision.

Confidentiality will be maintained throughout the investigation to the greatest extent possible and circulation of information will be minimized to that which is necessary to ensure fair treatment of all parties. Information will only be disclosed strictly on a "need to know" basis, if necessary for purposes of investigating or taking corrective action with respect to the incident or complaint, or as otherwise required by law.

While the investigation is ongoing, the Complainant, the individual(s) alleged to have engaged in discriminating, harassing or violent behavior (the "Respondent") and any witnesses will be advised that they are not to discuss the complaint, incident, investigation or their testimony with other employees, witnesses or other third parties unless necessary to obtain advice with respect to any legal issues. The Complainant(s) and the Respondent(s) are allowed to have someone accompany them during any stage of the investigation process.

The investigator will separately interview the Complainant and the Respondent as soon as reasonably possible. Parties may be requested to sign their statement.

Where deemed appropriate, CAC may implement temporary changes to reporting relationships or ask either party to work from home (or, in the alternative, take a paid leave of absence) pending the conclusion of the investigation.

The investigator must give the Respondent an opportunity to explain their perception of events and to respond to the Complainant's account of events. Even if the allegations are denied, the discussion will be treated as a formal warning that inappropriate workplace behaviour will not be tolerated.

The investigator will review the interviews and document any inconsistencies or other questions they may have. The investigator may conduct further interviews of the parties if needed to clarify any information.

All individuals involved in the investigation are required to:

- (a) Cooperate fully in the investigation and resolution of any concerns, incidents and complaints.
- (b) Respect the need for confidentiality. This means they must refrain from discussing concerns, incidents or complaints, or the existence of (or their involvement in) any investigation of a concern, incident or complaint, except as strictly required for the purposes of any investigation and resolution, to obtain advice about their rights, or as otherwise compelled by law. **This is a critically important obligation and any breach of your confidentiality obligation will be treated as serious misconduct.**
- (c) Refrain from any form of reprisal against anyone involved in the investigation.
- (d) Once the investigation is completed, the investigator will determine whether the acts complained of constitute workplace discrimination, violence or harassment. The investigator will produce a written report summarizing the investigation and forward to the Chief Operating Officer for review and discussion. Where the Chief Operating Officer is involved in the complaint, the Chief Executive Officer will assume these duties. Where the Chief Executive Officer is also involved, the CAC Board of Directors will assume these duties.
- (e) The investigator may make recommendations for any corrective actions to be taken by CAC.
- (f) Where a concern, incident, or complaint is substantiated, CAC will take appropriate disciplinary and corrective action against the offender. In appropriate situations, CAC may contact law enforcement officials or initiate legal action. Where a concern, incident or complaint is not substantiated, as long as the report or complaint was made in good faith, there will be no repercussions against the Complainant.
- (g) The employee complaining of workplace violence or workplace harassment and the Respondent, if they are an employee of CAC, shall be informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.
- (h) Employees seeking information or clarification of this procedure, or wishing to have an informal discussion regarding a possible complaint, are encouraged to approach the Chief Operating Officer. Such inquiries will be held in confidence.

*A number of government agencies have been established to prevent and redress discrimination, harassment and violence. Implementation of this procedure does not prohibit employees from reporting incidents to their respective provincial government body.*

## 11. Record Keeping

CAC will keep records of the investigation, including:

- 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 that was provided to the Complainant and Respondent;
- a copy of any corrective action taken to address the complaint or incident of workplace violence or workplace harassment.

All records of the investigation will be kept confidential to the extent possible and except as required by law. The investigation records will not be disclosed unless necessary to investigate an incident or complaint of workplace discrimination, violence or harassment, take corrective action or otherwise as required by law.

The records will be kept for a minimum of two (2) years from the conclusion of the investigation.

## **12. Failure to Report Violations**

Failure to report a violation of the law or this Policy is itself a violation of this Policy and may result in disciplinary action, up to and including termination of employment.

## **13. Reprisal Prohibited**

CAC will not tolerate any form of reprisal against an employee for reporting possible discrimination, workplace harassment, workplace violence, domestic violence, bullying or participating in investigations of complaints of any kind. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging or participating in the process.

If you believe you or a fellow employee has been subjected to unlawful reprisal, promptly report the concerns to the Chief Operating Officer.

## **14. Disciplinary and Corrective Action**

Whenever any individual is found to have engaged in conduct that constitutes a breach of this Policy, CAC will take appropriate disciplinary and corrective action to address the situation.

Disciplinary steps range from informal (e.g. a verbal reprimand) to formal (e.g. a suspension without pay), and from less serious to more serious (e.g. a demotion, removal of privileges, suspension from certain activities), up to and including, in appropriate cases, termination for cause or cancellation of an engagement/contract.

Corrective steps range from unstructured (e.g. requiring an apology, rearranging work space) to more structured (e.g. rearranging reporting relationships, requiring attendance at harassment/sensitivity/anger management training sessions).

If the offender is not an employee, CAC will take available appropriate action (e.g. notification of the individual's employer, cancellation of a contract, or a ban from the workplace).

The selection of the appropriate disciplinary and corrective action, or any action to be taken, will be in CAC's sole discretion. What is appropriate in any given situation will vary, and will depend on a number of factors including (among other things) the nature and seriousness of the problem, and whether this is a new or recurrent problem.

CAC also reserves the right to take appropriate interim measures and corrective action against an alleged offender, while a concern, incident or complaint is being investigated (e.g., suspension with or without pay, temporary schedule changes or temporary re-assignment, re-training, relocation).

### Criminal Offenses

In appropriate situations, CAC may contact law enforcement officials or initiate legal action. Upon receiving a complaint, or upon receiving a finding that an employee has engaged in a criminal offence (including but not limited to those cited below), CAC may determine that the matter must be reported to a governmental entity or local police service.

- a) Any child pornography offences;
- b) Any sexual offences;
- c) Any offence of physical violence;
- d) Any offence of assault; and
- e) Any offence involving trafficking of illegal drugs.

Such criminal offences will result in immediate disciplinary action up and to and including termination of employment for just cause.

## **15. Interaction with the CAC Code of Conduct**

Where the Respondent is not an Employee and is a Participant as defined in the CAC Code of Conduct:

- a) Where the complaint is substantiated, the results of the investigation will be referred to the Case Manager in order that sanctions can be imposed pursuant to the process contained in the CAC Code of Conduct, and the Respondent will be entitled to request reconsideration under the CAC Code of Code provided eligibility requirements are met; and
- b) Where the complaint is not substantiated, the Complainant will not be eligible to request reconsideration pursuant to the terms of the CAC Code of Conduct.

## **16. Anonymous Complaints**

If the Complainant wishes to remain anonymous, it may not be possible for CAC to conduct an appropriate investigation and/or adequately address the situation.

If the Complainant has experienced any workplace discrimination, harassment or violence, they are advised to contact their manager who will support them in the resolution of a genuine complaint or incident of workplace discrimination, violence or harassment.

## **17. Victimization and Malicious, Vexatious or Spurious Complaints**

Complaints of workplace discrimination, violence or harassment are treated seriously by CAC. Workplace discrimination, violence or harassment can have serious and far reaching effects on the careers and lives of individuals. A charge of workplace discrimination, violence or workplace harassment is not to be taken lightly by the Complainant or the Respondent. Both parties to a complaint, and any witnesses, will be protected to the extent possible until the outcome of the investigation, whereupon appropriate action to resolve the matter will be taken.

Any employee who victimizes a Complainant for bringing an allegation of workplace discrimination, violence or harassment will be subject to disciplinary action.

False accusations can have a serious impact on individuals. Employees found to have made mischievous, intentionally false or malicious complaints will therefore render themselves liable to appropriate disciplinary action. An accusation is false if the events or conduct reported did not occur and the employee making the report knew that the events or conduct did not occur. An individual shall not be considered to have filed false accusations in cases where the accusation cannot be substantiated by supporting evidence, but was nevertheless filed in good faith.

Any employee who witnesses or becomes aware of violent, harassing, intimidating or threatening behaviour by any person in the workplace towards a Complainant or Respondent should notify their manager immediately. The reporting employee will need to provide full written details of the incident and the names of all persons present or involved.

## **18. Domestic Violence and Restraining Order**

Employees are encouraged to discuss any domestic violence situation with their manager or the Chief Operating Officer and ask for help. If an employee has concerns that an abusive partner may attempt to gain entry to the workplace and threaten violence or harass the employee, the employee should notify their manager or the Chief Operating Officer to ensure that appropriate measures are put in place to ensure that access by his/her partner to the workplace is restricted. If an abusive partner gains entry to the workplace, the employee should immediately call the police if the abuser threatens or harasses the employee or violates any civil/criminal orders of protection.

Should an employee have a legal court order (e.g. restraining order, or “no-contact” order) against another individual, the employee is encouraged to notify their manager, and to supply a copy of that order to the Chief Operating Officer. This will likely be required in instances where the employee strongly feels that the aggressor

may attempt to contact that employee at CAC in direct violation of the court order. Such information shall be kept confidential.

### **19. Training and Policy Review**

CAC will provide information and training sessions on a regular basis, but at least once annually, or as often as is necessary, to ensure that all staff are aware of and understand our Positive Workplace Policy and Implementation Program.

CAC will ensure that employees are trained on the contents of this Policy and Program including how to report incidents and complaints of workplace discrimination, harassment or violence.

All employees will also be required to complete a mandatory health and safety awareness and accessibility and disability awareness training program. These programs will, among other things, instruct employees as to their duties and rights in the workplace.

CAC will ensure that this Policy and Program is maintained and reviewed annually or when any gaps or deficiencies in its program are identified as a result of an investigation.

For details about upcoming information sessions, please contact a manager or the COO.

<b>Accountable Officer</b>	CEO & COO
<b>Policy type</b>	Governance policy
<b>Approved date</b>	TBD