

# Language Discrimination & Harassment Policy



## 1. STATEMENT OF POLICY

ABC Company recognizes that while English and French are the country's official languages, more than 200 languages are spoken by the Canadian population. The Company also recognizes that many of these individuals are subject to workplace discrimination and harassment because of the language they speak and that such conduct violates human rights laws, Charter rights and ABC Company values, as well as its commitment to ensure a workplace where all are treated with dignity and respect and nobody is subjected to discrimination and harassment.

## 2. PURPOSE

The purpose of this Policy is twofold:

- To establish clear ground rules regarding language discrimination so that all employees understand what is and is not acceptable; and
- To describe the procedures ABC Company follows to receive, investigate and resolve complaints of language discrimination, including imposition of discipline for those found guilty of offences.

## 3. DEFINITION OF LANGUAGE DISCRIMINATION

**“Language discrimination”** means any conduct, decision-making, actions or distinctions based on a language a person speaks which, whether intentionally or not, directly or indirectly 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. Language discrimination is a form of national origin discrimination banned by both federal and provincial human rights codes and may occur even if language is only factor in the conduct, decision-making, action or distinction. Language discrimination can take several forms, as described below.

- **English-Only Policies**

Language discrimination occurs when employees are not allowed to speak another

language, such as when a company, manager imposes an “English-only” policy without proper notice or a justified business purpose. Examples of the latter where it may be justifiable to require an employee to speak English include but are not necessarily limited to:

- In response to emergencies where communication in a common language is essential to preserve life, safety or health;
- When an employee needs to communicate with customers, co-workers or supervisors who only speak English;
- Cooperative work assignments for which speaking only English is necessary to carry out effectively, for example, where a group of employees need to compile a single report.

Note that even where English-only is justified, it is justified only for these limited situations and not as a general policy.

- **Discrimination Based on Accent**

Accent discrimination which occurs when an employer discriminates against an employee because of their accent or difficulty in speaking English to the extent the accent does not interfere with the ability to perform necessary job duties. Accent, or lack thereof, may be a legitimate job qualification only when it interferes with communication skills reasonably related to job performance such as for teaching, customer service, telemarketing and other jobs for which speaking without an accent may be essential.

- **Multilingual Discrimination**

Multilingual discrimination occurs when an employer discriminates against an employee because they fluently speak more than one language. Examples include asking the employee to translate in a different language from the one commonly spoken at the workplace without additional compensation.

- **Subtle Forms of Language Discrimination**

Subtle discrimination is a more common and less overt. Often, it can be detected only by indirect or circumstantial evidence considering all of the circumstances indicating that race is factoring into a company’s employment decisions or practices. Examples:

- Exclusion from formal or informal networks;
- Denial of mentoring or developmental opportunities such as secondments and training which were made available to others;
- Differential management practices such as excessive monitoring and documentation or deviation from written policies or standard practices when dealing with a person due to their language;
- Disproportionate blame for an incident;
- Assignment to less desirable positions or job duties;
- Treating normal differences of opinion as confrontational or insubordinate when involved with racialized persons;
- Characterizing normal communication from non-English speaking persons as rude or aggressive;
- Penalizing a person for failing to get along with someone else, e.g., a co-worker or manager, when one of the reasons for the tension is the person’s language and the discriminatory attitudes or behaviour of the co-worker or

manager.

- **Language-Based Harassment**

Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome based on a person's language.

Examples:

- Epithets, slurs or jokes;
- Name calling or nicknames;
- Cartoons, graffiti, screensavers, etc.;
- Comments ridiculing individuals because of the language they speak;
- Singling out an individual for teasing or jokes related to race, ancestry, place of origin or ethnic origin;
- Inappropriate references to racist organizations such as the Ku Klux Klan;
- Threats, violence or acts of intimidation;
- Circulating ethnically offensive jokes, pictures or cartoons by e-mail.

#### **4. ROLES & RESPONSIBILITIES**

- **Management Duties**

ABC Company management shall:

- Treat all co-workers, seniors, subordinates, colleagues and others with whom they interact with professionalism, dignity and respect in adherence to this Policy;
  - Provide satisfactory resources to deal with discrimination complaints;
  - Take complaints seriously and respond to them quickly; and
  - Foster a healthy environment where employees feel comfortable about raising complaints and are kept informed about and involved with actions taken in response.
- **Supervisor Duties**

Supervisors shall:

- Treat all co-workers, seniors, subordinates, colleagues and others with whom they interact with professionalism, dignity and respect in adherence to this Policy;
  - Ensure that all employees, including those in positions of responsibility, are made aware of ABC Company anti-discrimination and harassment policies as soon as they are introduced, as well as through training, orientation material and education on human rights issues;
  - Continually monitor the work environment to make sure it is free of discrimination and harassment.
- **Employee Duties**

Employees shall:

- Treat all co-workers, seniors, subordinates, colleagues and others with whom they interact with professionalism, dignity and respect in adherence to this Policy;
- Immediately notify a supervisor or manager if they experience or witness incidents of discrimination, harassment or other violations of this Policy.

## 5. REPORTING DISCRIMINATION

### • Procedures

ABC Company wants to ensure all its employees feel safe, comfortable and encouraged to report any incident of discrimination, harassment or misconduct they have observed or experienced. Please file a complaint about any incident to your manager [contact name and info] or HR advisor [contact name and info]. If it is not appropriate to file a complaint with these individuals because they are involved in the incident, the employee should report the incident to any other manager of their choice.

Complaints need not be in writing but should include as much detail as possible, including the name(s) of the individual(s) involved and a description of the incident(s), including actions and/or comments made, place(s), date(s) and time(s).

The possibility of informal resolution may be explored and reached with the consent of all parties. If no informal resolution is sufficient, a formal and thorough investigation of the incident and surrounding circumstances will be undertaken, involving interviews with the complainant, the respondent, and any other individuals who may be able to provide information on the situation.

Filing an internal complaint with ABC Company does not limit an employee's right to file a complaint in connection with the incident or matter to the [province] Human Rights Tribunal [contact info] within [time to file human rights complaints, which is one year in most jurisdictions].

Threats, attempts or actual incidents of physical or sexual assault are all criminal offences and can be reported to your local police service.

### • Assurance of Non-Retaliation

Employees are reminded that ABC Company is committed to providing you a workplace free of discrimination in accordance with human rights and other laws and this Policy. Making you feel free to come forward and report incidents or concerns is an important part of our commitment. Accordingly, we wish to assure you that you won't be fired, demoted, reassigned, disciplined or subject to any other punishment or adverse treatment from ABC Company or its managers, supervisors and other representatives in retaliation for reporting discrimination, harassment or misconduct in good faith.

### • Bad Faith Complaints

To protect the innocent, ABC Company reserves the right to discipline any employee who knowingly and in bad faith files a false complaint or makes misrepresentations, up to and including termination. For purposes of this Policy, a complaint is not considered bad faith merely because the evidence does not ultimately support the allegation. Bad faith requires an investigation finding that the employee who accused another person of discrimination or harassment acted maliciously knowing the accusation was false or recklessly without regard to whether the accusation was true.

## 6. INVESTIGATION

All reports of violations of this Policy will be taken seriously and responded to immediately. Where it is determined that the report has merit, an internal investigation will be made by staff members not implicated or in any way involved in the complaint following the fair investigation procedures and protocols set out in

the ABC Company Disciplinary Policy.

## **7. DISCIPLINE**

Where acts of discrimination or harassment are shown to have occurred, they will not be tolerated and will be responded to with appropriate disciplinary action, up to and including termination, based on a thorough investigation of the incident and the surrounding circumstances. Such disciplinary action may include immediate termination, even if the person committing the act has committed no prior offences.

## **8. PRIME CONTRACTORS, CONTRACTORS & SUBCONTRACTORS**

To protect employees from risks of discrimination or harassment by third parties they contact at work, ABC Company will ensure that any prime contractors, contractors, and subcontractors hired to perform work at its work sites are notified of and required to ensure their workers comply with the terms of this Policy and are held accountable for any violations they commit.

## **9. MONITORING**

ABC Company will engage in proactive, ongoing monitoring to ensure that this Policy is being implemented effectively. Monitoring methods may include, without limitation:

- Collection and analysis of complaints filed, disciplinary actions, interviews, hirings, promotions and other key data, statistics and metrics;
- Surveying and consulting with employees and workplace committees;
- Exit interviewing;
- Systems review and research.

ABC Company will take immediate action to address any problems it identifies and in response to indications that this Policy is not as effective as it needs to be in preventing discrimination and harassment.