



## **POLICY ON PREVENTION OF PSYCHOLOGICAL OR SEXUAL HARASSMENT AND COMPLAINTS PROCEDURE**

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### **Vision**

AIDS Community Care Montréal (“ACCM” or “the Corporation”) envisions a society free from the stigma of HIV/AIDS. We are committed to building a community where all people living with or affected by HIV/AIDS and Hepatitis C receive the support they need. We are dedicated to empowering individuals to make informed decisions related to their health and well-being.

### **Mission**

ACCM is a volunteer-based community organization working to enhance the quality of life of people living with HIV/AIDS and/or hepatitis C, to prevent HIV and hepatitis C transmission, and to promote community awareness and action.

### **Commitment to Anti-Discrimination**

ACCM is committed to combating all forms of discrimination, including but not limited to discrimination based on race, ethnicity, gender, sexuality, disability, immigration status, history of imprisonment, and religion. ACCM is located on Kanien’kehá:ka land.

### **Commitment to Our Values**

AIDS Community Care Montreal (ACCM) recognizes the right of every person affiliated with ACCM – including but not limited to employees, volunteers, members, contract staff, and Board Members -- to be able to attend work, perform their duties, and engage in the organization without being subjected to any form of abuse, bullying, discrimination, psychological harassment, sexual harassment, fear of psychological harassment or fear of sexual harassment. ACCM recognizes that individuals have intersectional identities and further recognizes that harassment may occur as a result of identity, but may also be compounded based on a plurality and/or combination of identities.

## **1. Purpose & Principles**

- 1.01 The purpose of this policy is to assist ACCM in taking all reasonable steps to: maintain a climate that is free of harassment and ensures everyone associated with the organization has the right to dignity and respect; contribute to the sensitization, education, and training of all associates of ACCM to prevent and address harassing behaviour; and provide the necessary support to people who believe they have been subjected to harassing behaviour by outlining a clear and fair process.
- 1.02 The following principles support and inform the direction of this policy:
  - a) Fairness and due process;
  - b) Existence of rape culture in society;
  - c) Affirmative consent and consent culture;
  - d) Non-directionality when providing support;
  - e) Inclusivity, diversity, equity, and intersectionality;
  - f) Gender-sensitivity and gender-inclusivity; and
  - g) Accessibility and collaboration.

## **2. Application**

- 2.01 This policy applies to any type of harassment that may occur at ACCM and ACCM-affiliated activities and events, including third-party operations (e.g., fundraisers, meetings, training sessions, social functions, Kontak activities and outreach). Digital communications and social media are included as environments where this policy applies.
- 2.02 In accordance with the Code of Conduct, this policy does not prevent staff from asking a person to leave the space or environment of ACCM or to take a break from ACCM if said staff member feels there is a threat to the health or safety of the ACCM community or an individual.



### 3. Definitions

3.01 The following are definitions used in this policy:

- a) Discrimination is any unfair treatment or arbitrary distinction based on a person's characteristics, including but not limited to: ability/disability, age, body shape, civil status, colour, ethnicity, gender, gender expression, gender identity, language, nationality, national origin, physical appearance, political convictions, pregnancy, race, religion, serostatus, sex, sexual orientation, social condition, social origin, social status, or trans identity.
- b) Psychological harassment is any vexatious (e.g., distressing, upsetting, frustrating) behaviour by one person(s) to another person(s) in the form of repeated hostile, intimidating, or unwanted conduct, comments, actions, gestures, or any other form of expression that affect the dignity or psychological or physical integrity of a member of the ACCM community, and that result in a harmful environment for such an individual. The behaviour can be direct or indirect, obvious or subtle, active or passive. One significant incident may also constitute harassment. Harassing behaviour cannot be excused by intoxication.
- c) Sexual harassment is unwanted remarks, requests, behaviours, gestures, or communications of a sexual nature. Sexual harassment may consist of unwanted attention - whether verbal, virtual, physical, or a combination thereof - of a sexual nature such as personal questions about one's sex life, persistent requests for a date, or unwelcome remarks about someone's hair, body shape, etc. Sexual harassment may also consist of unwelcome remarks based on gender and/or sexuality, which are not of a sexual nature but are demeaning, such as derogatory gender-based jokes or comments. One significant incident may also constitute harassment. Harassing behaviour cannot be excused by intoxication.
- d) Consent is an affirmative decision to engage in a mutually agreed upon activity and is clearly articulated. Consent is active, not passive or silent, and is ongoing. Consent cannot be coerced through harassment, manipulation, threats or abuse of power. It is the responsibility of the person who wants to engage in physical contact or another activity to make sure that they have consent from the other person(s) involved. Consent cannot be given by a person who is incapacitated by alcohol and/or drugs, or who is unconscious or otherwise lacks the capacity to give their consent.
- e) Abuse of Authority is the improper use of a position of influence, power, or authority against another person (e.g., hierarchies within the organization of ACCM and/or the ACCM community). This is particularly serious when a person uses their influence, power, or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion. Abuse of authority may also include conduct that creates a hostile or offensive environment which includes, but is not limited to, the use of intimidation, threats, blackmail, or coercion. Discrimination and harassment are particularly serious when accompanied by abuse of authority.
- f) Complainant refers to the person who alleges they have experienced psychological harassment and/or sexual harassment.
- g) Respondent refers to the person who has been accused of committing an alleged act of psychological harassment and/or sexual harassment.
- h) Advocate refers to the point people from staff and among membership who are available to assist and support the Complainant and the Respondent.  
The Advocate can:
  - 1) Assist the Complainant in making a complaint and understanding the procedure;
  - 2) Assist the Complainant in pursuing the Informal Procedure and/or the Formal Procedure
  - 3) Accompany the Complainant at any point during a Procedure;
  - 4) Accompany the Respondent at any point during a Procedure;



- 5) Represent the Complainant at any point during a Procedure;
- 6) Represent the Respondent at any point during a Procedure;
  - ii) Staff appoints their Advocate(s) every six months at a team meeting.
  - iii) Membership appoints their Advocate(s) every six months at a Dinner & Discussion (D&D).
- i) Management refers to the Executive Director, the Programs Development Manager, the Jeunes Queer Youth Program Manager, and any other manager position within ACCM.
- j) ADPERCOM is an acronym for the Administration and Personnel Committee, which is a committee comprised of board members of ACCM.
- k) Mediator refers to a person from Management and/or ADPERCOM.
  - i) For the Informal Procedure (Section 6), the Mediator may be only one person.
  - ii) For the Formal Procedure (Section 7), there may be more than one Mediator.
  - iii) For the Appeals Procedure (Section 8), there may be more than one Mediator.

#### **4. Rights**

- 4.01 This policy assures that everyone has the right to:
- a) An environment that is free from harassment;
  - b) File a complaint when the environment is not free from harassment;
  - c) Be informed of a complaint made against them;
  - d) Obtain an investigation of the complaint without fear of embarrassment or reprisal;
  - e) A fair and due process;
  - f) Be informed throughout the investigation;
  - g) Be informed of the result of the investigation;
  - h) A fair appeals procedure;
  - i) Confidentiality, to the degree possible under the circumstances; and
  - j) Support and representation by an Advocate.

#### **5. Complaints Procedure**

- 5.01 A complaint, lodged by the Complainant against the Respondent, concerns alleged incidents of psychological harassment and/or sexual harassment.
- 5.02 A complaint can be resolved through the Informal Procedure (Section 6) or the Formal Procedure (Section 7).
- 5.03 The Complainant and/or the Respondent can seek an appeal to the outcome of a Formal Procedure through the Appeals Procedure (Section 8).
- 5.04 For any procedure (i.e., the Informal Procedure, the Formal Procedure, the Appeals Procedure), a Mediator will document the complaint for purpose of record keeping.
  - a) The documentation process is provided in Appendix A.
  - b) The complaint document is provided in Appendix B.
- 5.05 The Complainant is not limited to selecting either the Informal Procedure or the Formal Procedure for their complaint; they are able to pursue both options if they so choose.
- 5.06 The Complainant is not limited from pursuing additional Informal Procedure(s) and/or Formal Procedure(s) in the case that psychological harassment and/or sexual harassment continues.
- 5.07 There is no statute of limitations (i.e., a time limit) for bringing forward a complaint.



- 5.08 The Complainant may choose to withdraw from the Informal Procedure and/or the Formal Procedure at any time.
- a) In the case of withdrawal, the complaint will be closed, but a record of the complaint will be kept on file.
  - b) In the case of a withdrawal, Management and/or ADPERCOM reserves the right to review the environment of ACCM for concerns of harassment.
- 5.09 At any point during any procedure (i.e., the Informal Procedure, the Formal Procedure, the Appeals Procedure), the Complainant and the Respondent each have the right to seek support, accompaniment, or representation from an Advocate.
- 5.10 Any procedure (i.e., the Informal Procedure, the Formal Procedure, the Appeals Procedure) must be concluded within 32 of ACCM's working days.

## **6. Informal Procedure**

- 6.01 The Informal Procedure is the procedure wherein the Complainant and the Respondent are able to resolve the complaint without an investigation.
- 6.02 In the Informal Procedure, the Complainant and Respondent must engage voluntarily and remain free from reprisal.
- 6.03 Each Informal Procedure may result in a different course of action depending on the complaint, the Complainant, and/or the Respondent.
- 6.04 The Informal Procedure consists of the following process:
- a) The Complainant reports the complaint to the Mediator. The *de facto* Mediator for the Informal Procedure is Management, though ADPERCOM can serve as the Mediator in the Informal Procedure if the Complainant so desires.
  - b) The Mediator, with the assistance of the Complainant, documents the complaint. A minimum of information is required in the Informal Procedure.
  - c) The Complainant suggests a course of action. (Examples for a course of action are provided in Appendix C.)
  - d) The Mediator reviews the Complainant's suggested course of action to verify and ensure the suggestion:
    - i) Is not punitive or offensive;
    - ii) Complies with the Informal Procedure;
    - iii) Aligns with the purpose and principles of this policy (Section 1);
    - iv) Aligns with the application of this policy (Section 2.01); and
    - v) Aligns with the rights outlined in this policy (Section 4).
  - e) The Respondent is informed of the complaint by the Mediator.
  - f) The Mediator, with the assistance of the Respondent, documents the Respondent's account of the situation.
  - g) The Respondent responds to the Complainant's suggested course of action.
  - h) If both the Complainant and Respondent agree to the Complainant's suggested course of action, it will be implemented.
  - i) If the Respondent disagrees with the Complainant's suggested course of action, the Complainant is permitted to suggest another course of action.
  - j) In the case that the Complainant and the Respondent cannot find agreement on a course of action, the Mediator will intervene and choose a course of action that is non-punitive, non-



disciplinary, and aligns with the purpose and principles of this policy (Section 1). The decision by the Mediator is final.

## **7. Formal Procedure**

- 7.01 The Formal Procedure consists of an investigation into the complaint brought forward by the Complainant.
- 7.02 The Formal Procedure may result in disciplinary and/or punitive action.
- 7.03 The outcome of the Formal Procedure will be decided by the Mediator.
- 7.04 The Formal Procedure consists of the following process:
- a) The Complainant reports the complaint to the Mediator. The *de facto* Mediator for the Formal Procedure is ADPERCOM, though Management can serve as the Mediator in the Formal Procedure if the Complainant so desires.
  - b) The Mediator, with the assistance of the Complainant, documents the complaint. A reasonable amount of information is required to properly investigate the complaint.
  - c) The Respondent is informed of the complaint by the Mediator.
  - d) The Mediator, with the assistance of the Respondent, documents the Respondent's account of the situation.
  - e) The Mediator gathers additional information by conducting an investigation. The Mediator shall investigate the complaint fairly and objectively, using such methods as are deemed appropriate in the circumstances, which may include meeting with witnesses, reviewing files and documentation, and seeking information from third parties.
  - f) Based on the investigation, the Mediator will decide on one of the following three options:
    - i) The Mediator proposes a course of action. (Examples for a course of action are provided in Appendix C.) The Complainant and the Respondent are allowed to accept or reject the Mediator's proposed course of action.
      - 1) If the proposed course of action is accepted, the Formal Procedure is concluded.
      - 2) If the proposed course of action is rejected, the Mediator determines the course of action or dismisses the complaint.
    - ii) The Mediator determines an outcome that includes disciplinary and/or punitive action for either the Complainant or the Respondent. (Examples for an outcome are provided in Appendix D.)
    - iii) The Mediator dismisses the complaint.
  - g) The Mediator will notify the Complainant and the Respondent of the decision resulting from the investigation.

## **8. Appeals Procedure**

- 8.01 The Appeals Procedure is the opportunity for the Complainant and/or the Respondent to challenge the result of the Formal Procedure.
- 8.02 Any member of the Board of Directors who acted as a Mediator for the original complaint must recuse themselves from the entire Appeals Procedure listed in Section 8.03.
- 8.03 The Appeals Procedure consists of the following process:



- a) The Complainant and/or the Respondent requests an appeal from the President of the Board of Directors. They may present their appeal in writing and/or request to present their case at a meeting of the Board of Directors.
- b) The Board of Directors will be given all documentation from the investigation of the complaint. Both the Complainant and the Respondent will be notified that the Board has been given access to this documentation.
- c) After hearing the appeal and reviewing the documentation, the Board may choose to re-investigate the complaint or make a decision with the information available.
  - i) If the Board chooses to re-investigate the complaint, the Board assigns a new Mediator who will follow the Formal Procedure (Section 7.04, a-e) and propose a result. The Board reviews the information and the proposed result, and decides the final result of the appeal.
  - ii) If the Board chooses to make a decision with the information available without re-investigating the complaint, the appeal goes to a vote.
- d) The Board votes on the request for appeal. A majority vote of 2/3 of all voting board members is required to overturn the result of the Formal Procedure.
  - i) If the appeal is granted, the President of the Board will decide a new and final outcome.
  - ii) If the appeal is not granted, the original result will be final.

## **9. Privacy**

- 9.01 All communications, processes, and results reached through Informal Procedure or Formal Procedure will be strictly confidential, unless the Complainant and Respondent agree otherwise.
- 9.02 All information related to the complaint, including the names of the Complainant, the Respondent, and others related to the complaint, as well as the details of the complaint, will not be divulged unless deemed necessary for the implementation of administrative and/or disciplinary measures pursuant to the complaint and/or if required by law.

## **10. Disclaimers**

- 10.01 Laws such as the Quebec Charter of Human Rights and Freedoms, the Civil Code of Quebec, and the Criminal Code of Canada contain provisions or provide potential remedies related to harassment prohibited by law.
- 10.02 This policy and its procedures do not prevent and are not intended to discourage an individual from also reporting sexual violence to the police and pursuing a complaint of sexual violence through the criminal or civil justice system or from pursuing a complaint of sexual harassment with the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST), within two years of the last incident.

## **APPENDICES**

### **Appendix A: Documentation Process**

### **Appendix B: Complaint Document**



### **Appendix C: Informal Procedure: Courses of Action**

Examples of courses of action for the Informal Procedure may include, but are not limited to:

- Facilitation: The Complainant may request that a Mediator facilitate a discussion between themselves and the Respondent. In such circumstances, a Mediator would try to reach a resolution between the Complainant and the Respondent by acting as a “go-between.” Neither party is required to attend any face-to-face meetings during this process unless they both agree to do so. This facilitated process may result in a written agreement that could include behavioural expectations, agreement to no contact, or an apology.
- A written or verbal apology: The Respondent provides a written or verbal apology to the Complainant wherein the Respondent reflects upon their behaviour, apologizes for their behaviour, and explains how they will change their behaviour in the future.
- Impact statement: The Complainant may decide to communicate to the Respondent about how the Respondent’s behaviours, remarks or communications were unwelcome or uncomfortable. The Complainant may choose to communicate their concerns directly or indirectly, verbally or in writing, with the assistance of a Mediator.
- Education: The respondent may agree to participate in education and training related to anti-violence, anti-oppression, and consent.
- Restorative justice: Restorative or transformative justice is an approach used in situations that require a deep understanding of the harm done, the needs of those affected, and the strategies for moving forward as a community and creating lasting change. Using processes such as accountability circles or community conferencing, those who have done harm (e.g., the Respondent) and various stakeholders are actively engaged in understanding what happened, the impact of a harmful situation and hold those who have done harm accountable and responsible not only for their past actions but for shaping the future.

### **Appendix D: Formal Procedure: Outcomes**

Examples of outcomes for the Formal Procedure:

- Restrictions related to accessing buildings or offices or certain activities
- Mandated educational workshops or counselling
- No communication order between parties
- Letter of behavioural expectations

### **Appendix E: External Resources**

Given here is a list of resources available to anyone who may have experienced psychological harassment, sexual harassment, and/or sexual violence.

- The Help and Information Center on Sexual Harassment in the Workplace of the Province of Quebec: <https://www.gaihst.qc.ca/>
- Santé Montréal: <https://santemontreal.qc.ca/en/public/support-and-services/sexual-abuse/>
- Santé Montréal’s “Guide d’information à l’intention des victimes d’agression sexuelle: [https://santemontreal.qc.ca/fileadmin/fichiers/population/sante-az/agression\\_sexuelle/guide2011\\_fr.pdf](https://santemontreal.qc.ca/fileadmin/fichiers/population/sante-az/agression_sexuelle/guide2011_fr.pdf)
- Montreal Sexual Assault Centre: <http://cvasm.org/en/>
- Employee Assistance Program (EAP): <http://www.hc-sc.gc.ca/ewh-semt/occup-travail/empl/eap-pae-eng.php>
- Montreal Assault Prevention Centre: <http://www.cpamapc.org/>
- Native Friendship Centre of Montreal (NFCM): <http://nfcmm.org/>
- Tel-jeunes: <https://www.teljeunes.com/home>
- Partage au Masculin: <https://partageaumasculin.com/>
- SPVM: <https://spvm.qc.ca/en/Fiches/Details/Sexual-Assault>
- Info Santé 8-1-1: [www.sante.gouv.qc.ca/systeme-sante-en-bref/info-sante-8-1-1](http://www.sante.gouv.qc.ca/systeme-sante-en-bref/info-sante-8-1-1)



**AIDS COMMUNITY CARE MONTRÉAL • SIDA BÉNÉVOLES MONTRÉAL**  
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- Ordre des psychologues du Québec (OPQ): <http://www.ordrepsy.qc.ca/en/index.sn>
- Crime Victims Assistance Centre (CAVAC): <http://www.cavac.qc.ca/english/index.html>
- Centres de justice de proximité (CJP): [www.justicedeproximite.qc.ca](http://www.justicedeproximite.qc.ca)
- Commission des normes du travail (CNT): <http://www.cnt.gouv.qc.ca/en/home/index.html>
- Au bas de l'échelle: [www.aubasdelechelle.ca](http://www.aubasdelechelle.ca)
- Le Centre de Ressources et d'Intervention Pour Hommes Abusés Sexuellement dans leur Enfance (CRIPHASE): <http://www.criphase.org/>
- Suicide Action Montreal (SAM): <http://suicideactionmontreal.org/index.php?page=home>

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