



# DISCRIMINATION, HARASSMENT, BULLYING AND VIOLENCE PREVENTION AND INVESTIGATION POLICY

TEAMSTERS CANADA RAIL CONFERENCE

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### **1.0 - Policy Statement**

Teamsters Canada Rail Conference believes that every individual has the right to dignity and respect both within the union and in the workplace. The responsibility of creating and preserving a safe environment, free from discrimination, violence, bullying, and harassment is a collective one assumed by all TCRC members, officers and staff. TCRC shall endeavour to provide leadership in setting standards of behaviour which reflect our commitment to equality and dignity.

Federal and provincial human rights legislation protects employees and members of trade unions from discrimination and harassment based on certain personal characteristics. Those grounds vary somewhat in different legislation, but include race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, and age.

TCRC will not tolerate any form of discrimination, harassment, bullying, violence or improper conduct (collectively defined as "Prohibited Conduct" under this policy) within the union environment, whether it is at the Division, GCA/PLB or National level. TCRC will make every reasonably practicable effort to make sure that no member or employee is subjected to Prohibited Conduct.

TCRC will conduct an investigation into incidents or complaints of Prohibited Conduct and take corrective actions, as appropriate in the circumstances. Any Prohibited Conduct may result in charges/discipline being taken against a member, officer or staff pursuant to this Policy, the TCRC Bylaws, Teamsters Canada Bylaws and the IBT Constitution.

However, nothing in this Policy is intended to discourage a member or employee from exercising their rights pursuant to any law, including applicable human rights legislation.

## **2.0 - Application**

This policy applies to all members, officers and staff of Teamsters Canada Rail Conference, including part-time, casual, contract and temporary employees. This policy also applies to job applicants.

This policy is applicable to all behaviour that is in some way connected to the union environment, including any TCRC event and/or any event in which a member, officer or staff is participating on behalf of the TCRC, including but not limited to conventions, meetings, seminars, councils, courses and conferences, whether at the Division, GCA/PLB or National level.

With respect to TCRC employees, the policy addresses workplace harassment from all sources, such as customers, clients, employers, supervisors, workers and members of the public. It also applies to domestic violence that would likely expose a TCRC employee to physical injury in the workplace.

With respect to its offices across the country, TCRC commits to consulting and reviewing the policy with occupational health and safety committees/representatives, if any, or the affected workers, as required by applicable law; at each union office.

## **3.0 - Definitions**

**Complainant:** Any member, officer or staff that makes a complaint of Prohibited Conduct under this policy.

**Prohibited Conduct:** Any discrimination, harassment, sexual harassment, bullying, violence, or improper conduct, as defined below:

1. **Discrimination:** means any form of unequal treatment by a person(s) against another person or group based on their: sex, race, creed, colour, ancestry, religion, ethnic origin, place of origin, citizenship, nationality, sexual orientation, political affiliation, political opinion, gender identity, gender expression, marital status, family status, disability, physical size or weight, language, age, conviction for criminal or summary conviction offence that is unrelated to their membership or employment with the union, social and economic class, level of education, source of income, or activism and participation in the union. Unequal treatment can include imposing extra burdens or denying benefits. It may be intentional or unintentional. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but disadvantage certain groups of people. Discrimination may take obvious forms, or it may happen in very subtle ways. Even if there are many factors affecting a decision or action, if discrimination is one factor, that is a violation of this policy.
2. **Harassment:** means a course of comments or actions that are known, or ought reasonably to be known, to be unwelcome, unwanted, or uninvited. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning or unwelcome. Harassment is often persistent and part of a pattern, but may also include a single serious incident. It comprises actions, attitudes, language or gestures, which the harasser knows, or reasonably ought to know, are abusive, unwelcome, or wrong.

Harassment includes discriminatory harassment based on any of the grounds of discrimination set out above. In particular, it includes sexual harassment.
3. **Sexual Harassment** means:
  - a) engaging in a course of vexatious comment or conduct against a person 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 worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. Harassment excludes any reasonable conduct of TCRC officers or employees acting as an employer or supervisor in respect of the management or direction of staff or the place of employment (for example, the union office).
4. **Bullying and personal harassment** are defined as deliberate actions, mobbing, offensive, malicious and/or cruel behaviour with the aim to humiliate, intimidate, undermine, or destroy the character or confidence of an individual or group of individuals. Bullying and personal harassment may include an abuse of power or perceived power by one person or group over another that degrades an individual. Bullying behaviour is often persistent and part of a pattern, but it can also occur as a single, serious incident. It is usually carried out by an individual, who ought

reasonably to have known that their actions are unwelcome or unwanted. It can be committed by a single individual or be the result of group conduct or behaviour.

5. **Violence** is defined as threatened, attempted or actual conduct by a person that causes or is likely to cause physical or psychological injury or harm, and includes sexual violence.
6. **Improper conduct** means any retaliation against any person for filing a Prohibited Conduct complaint or for participating in the investigation of such a complaint, interference in the investigation or resolution of a Prohibited Conduct complaint, or filing an unfounded Prohibited Conduct complaint in bad faith or for improper motives. However, simply filing a complaint that is determined to be unsubstantiated is not improper conduct or grounds for discipline.

**Respondent:** Any person against whom a Prohibited Conduct complaint has been made against under this policy.

## 4.0 - Responsibilities and Expectations

**Teamsters Canada Rail Conference** is responsible for:

- providing all members and staff an environment free of Prohibited Conduct;
- providing all officers and staff with training about Prohibited Conduct and the requirements of the policy; and
- ensuring a copy of this policy is posted in a conspicuous place that is readily available for reference in each union office.

**The TCRC Executive Board** and/or their designate is responsible for:

- ensuring that this policy is applied in a timely, consistent and confidential manner;
- determining whether or not allegations of Prohibited Conduct are substantiated; and
- determining what corrective action is appropriate where a Prohibited Conduct complaint has been substantiated.

**The TCRC National Secretary-Treasurer** is responsible for:

- the administration of this policy;
- maintaining all records related to any complaints in a safe and confidential location; and
- reviewing this policy annually, or as required by law in the applicable jurisdiction, and making necessary adjustments to ensure that the policy

meets the needs of the organization and to ensure compliance with any relevant legislative changes.

**All TCRC Officers** are responsible for:

- fostering an environment free of any Prohibited Conduct and setting an example of appropriate behaviour;
- communicating the process for investigating and resolving Prohibited Conduct complaints made by members and staff;
- dealing with Prohibited Conduct situations immediately upon becoming aware of them, whether or not a complaint has been made;
- taking appropriate action during a Prohibited Conduct investigation, including separating the parties to the complaint, when appropriate; and
- ensuring any Prohibited Conduct situations are dealt with in a sensitive and confidential manner.

**TCRC members and staff** are responsible for:

- treating others with respect and in accordance with this policy;
- reporting Prohibited Conduct to the National Secretary-Treasurer;
- cooperating with any investigation and respecting the confidentiality of the investigation and complaint resolution process;

**TCRC members and staff** can expect:

- to be treated with respect in the workplace;
- that reported Prohibited Conduct will be dealt with in a timely, confidential and effective manner;
- to have their rights to a fair process and their confidentiality respected during an investigation; and
- to be protected against retaliation for reporting Prohibited Conduct or participating in an investigation.

## **5.0 - Procedures for Addressing Prohibited Conduct**

If any member or staff believe they have experienced Prohibited Conduct, they need to take the following action:

If possible, and appropriate, make it clear that they do not welcome such behaviour. They can do so either on their own, verbally or in writing, or with the assistance of another person. They should make their intentions clear that they will take further action if the behaviour continues.

If the inappropriate behaviour persists, approach any available TCRC Officer, who will attempt, if appropriate, to resolve the matter informally and quickly. They may ask that officer for help right away - If they are reluctant to approach the harasser directly.

Each incident will be handled confidentially and quickly, with particular sensitivity for the complainant. Where the matter cannot be resolved informally, the Complainant may file a formal complaint.

## **5.1 - Filing a Complaint**

Any member or staff may file a Prohibited Conduct complaint by contacting the National Secretary-Treasurer. The complaint should be in writing. If the complaint is made verbally, National Secretary-Treasurer will record the details provided by the Complainant.

If the complaint is against the National Secretary-Treasurer, the Complainant will file the complaint with another member of the TCRC Executive Board.

The Complainant should be prepared to provide details such as: what happened; when it happened; where it happened; how often; and who else was present (if applicable).

Complaints should be made as soon as possible, but no later than within 90 days of the last incident of perceived Prohibited Conduct, unless there are circumstances that prevented the member or staff from doing so.

The National Secretary-Treasurer will notify the Respondent to the complaint, in writing, that a complaint has been filed. The letter will also provide details of the allegations that have been made against them, in order to permit the Respondent to respond to the allegations, and as necessary for the TCRC to resolve, investigate or take corrective action. This may include disclosing the circumstances related to the alleged incident of Prohibited Conduct and the name of the Complainant.

TCRC may also be required to disclose personal information necessary to inform members or employees of a specific or general threat of violence or potential violence. Should such circumstances arise, the TCRC will disclose only the minimum personal information necessary for such purposes.

Every effort will be made to resolve complaints in a timely manner. The Executive Board and/or their designate will advise both parties of the reasons why, if this is not possible.

If either party to a complaint believes that the complaint is not being handled in accordance with this policy, they should contact the Executive Board and/or their designate.

## **5.2 – Mediation**

Wherever appropriate and possible, the parties to the complaint will be offered mediation prior to proceeding with an investigation.

Mediation is voluntary and confidential. It is intended to assist the parties to arrive at a mutually acceptable resolution to the complaint.

The mediator will be a neutral person, acceptable to both parties. The mediator will not be involved in investigating the complaint.

Each party to the complaint has the right to be accompanied and assisted during mediation sessions by a person of their choice.

### **5.3 - Investigation**

If mediation is inappropriate or does not resolve the issue, an investigation will be conducted. All investigations will be conducted by an individual who has the necessary training and experience. In some cases, an external consultant may be engaged for this purpose.

The investigator will interview the person who made the complaint, the person the complaint was made against, and any witnesses that the investigator deems appropriate.

The investigator will, to the extent possible, protect the confidentiality and privacy of persons involved in a complaint, subject to the requirements of a fair investigation and resolution process.

The investigator will prepare a report that will include:

- a description of the allegations;
- the response of the person the complaint was made against;
- a summary of information learned from witnesses (if applicable);
- a decision about whether, on a balance of probabilities, Prohibited Conduct occurred; and
- may include advice about appropriate responses and outcomes.

The report will be submitted to the Executive Board.

### **5.4 - Substantiated and Unsubstantiated Complaints**

If a complaint is substantiated, the Executive Board and/or their designate will decide what corrective action is appropriate pursuant to this policy, the TCRC Bylaws, Teamsters Canada Bylaws, the IBT Constitution, and relevant legislation.

The resolution may include, but not be limited to, apologies, training, reprimands and possible expulsions from the event at which any incident/s occurred (including the expulsion of third parties). Where the safety of any individual is compromised or a criminal act is alleged to have occurred, the appropriate authorities shall also be contacted.

Both parties to the complaint will be provided, in writing, with information about the outcome of the investigation and any corrective action to be taken to address the complaint.

## **6.0 - Other Redress**

Nothing in this Policy prevents, or seeks to discourage, a member or employee from filing a complaint with any appropriate external body, including the applicable human rights tribunal.

## **7.0 - Privacy and Confidentiality**

All individuals involved in a complaint under this Policy are expected, to the extent possible, to maintain confidentiality over all information obtained about the Prohibited Conduct incident or complaint, including identifying information about any individuals involved. Information about the incident or complaint is not to be disclosed to anyone unless disclosure is necessary to protect workers, to investigate the complaint or incident, to take corrective action or as otherwise required by law.

While the investigation is ongoing, the Complainant, the Respondent and any witnesses will be instructed not to discuss the complaint, incident or the investigation with other members, workers or witnesses, unless necessary to obtain advice about their rights.

Teamsters Canada Rail Conference and all individuals involved in the complaint process, will comply with all requirements of the applicable personal information protection legislation and TCRC's Privacy Policy to protect personal information.

## **8.0 - Record Keeping**

The National Secretary-Treasurer will keep all records associated with a complaint under this Policy in a safe and confidential location, including:

- a) a copy of the complaint or details about the incident;
- b) a record of the investigation including notes;
- c) copies of witness statements, if taken;
- d) a copy of the investigation report, if any;
- e) a copy of the results of the investigation that were provided to Complainant and the Respondent; and
- f) a copy of any corrective action taken to address the complaint.

The above records will be kept for at least one year from the conclusion of the investigation.

## **9.0 - Enquiries**

Enquiries about this policy and related procedures can be made to the National Secretary-Treasurer.

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