



AMENDMENTS TO THE *CODE OF PROFESSIONAL CONDUCT* (April 28, 2023):

At April 2023 Convocation, the Benchers approved amendments to the *Code*. Amendments are listed at the end of each Chapter.

The amendments are highlighted below.

At April Convocation, amendments to the *Code of Professional Conduct* were approved by the Benchers pertaining to section 6.3 *Harassment and Discrimination* and related commentaries.

The amendments address the ongoing problems of harassment and discrimination faced by members of the profession whose personal characteristics are covered by human rights protections. The amendments also reflect contemporary understandings of discrimination and harassment law, while also acknowledging that legal professionals must stay abreast of developments in the law, understand the past and ongoing impacts of colonialism on Indigenous members of the profession, and remain aware of their own biases.

6.3 Discrimination and Harassment – heading amended

6.3-1, Discrimination – Rule amended and Commentary [1] – [9] added. This section contains the broadest duty and encompasses the duty not to harass. The Commentary to Rule 6.3-1 defines discrimination and includes a non-exhaustive list of behaviours that amount to discrimination. Further guidance in the Commentary on these obligations, also includes:

- a reminder that discrimination and harassment undermine confidence in our profession and in our legal system;
- the connection and commitment to the Truth and Reconciliation Commission's Calls to Action, and notes that legal professionals should be aware of the ongoing repercussions for Indigenous peoples of Canada's colonial legacy and advising that they should take particular care to avoid engaging in, allowing, or being willfully blind to actions which constitute discrimination or any form of harassment against Indigenous peoples;
- the requirement to respect workplace health and safety laws;
- identification that ameliorative programs, services or activities are not discrimination; and
- an affirmation that rules of professional conduct can apply to conduct outside of practice.

6.3-2, Harassment – Rule amended and Commentary [1] – [4] added. This is an interpretive provision indicating that a term used in the Rule that is defined in human rights legislation has the same meaning as in the legislation. The Commentary defines key terms, including harassment, and provides examples of behaviours that constitute harassment and bullying. A similar affirmation as to the scope contained in 6.3-1 is also included.

6.3-3, Sexual Harassment – Rule amended and Commentary [1] – [4] added. The prohibition on sexual harassment is revised slightly to ensure consistency with the changes to the language in Rules 6.3-1 and 6.3-2. The Commentary defines sexual harassment, acknowledges that it can be directed at someone based on their gender, gender identity or gender expression, and provides a non-exhaustive list of examples of behaviour that amounts to sexual harassment. A similar affirmation as to the scope contained in 6.3-1 is also included.

6.3-4, Reprisal – Rule amended, a – d added; and Commentary [1] added. This section prohibits reprisals against persons inquiring about their rights or the rights of others, complainants, witnesses, and those assisting in investigations or proceedings related to a complaint of discrimination, harassment or sexual harassment. The Commentary contains a non-exhaustive list of behaviours that amount to reprisal.

6.3-5, deleted and Commentary [1] deleted.