## WORKPLACE HARASSMENT, DISCRIMINATION, AND VIOLENCE

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Head of Organization’s Name and Title Date

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[Organization Name] recognizes its responsibility to build and maintain a diverse, respectful workplace, free from all forms of harassment, including sexual harassment, in which the dignity and self-respect of every person is valued. This same commitment must come from its employees, who are personally responsible at all times for their behaviour and conduct.

DEFINITIONS

A respectful workplace is one that values diversity and inclusion, dignity of the person, courteous conduct, mutual respect, fairness and equality, positive communication between people, and collaborative working relationships.

Harassment is any objectionable or offensive behaviour that is known, or ought to be reasonably known, to be unwelcome. It includes objectionable actions (e.g. touching, pushing), comments (e.g. jokes, name-calling) or displays (e.g. posters, cartoons) made on either a one-time or continuous basis that demean, belittle, or cause humiliation or embarrassment. Harassment can also take place electronically (e.g. text messages, social media, email or screensavers).

This definition of harassment is broader than the legislative definitions of harassment contained in *The Human Rights Code* (Manitoba) and *The Workplace Safety and Health Act*.

Inappropriate conduct will be deemed “disrespectful behaviour” or “harassment” depending on the circumstances of the particular incident. Disrespectful behaviour which continues or increases in severity and frequency may become harassment.

Sexual harassment is:

* a course of abusive remarks or behaviours based on gender or sex; or
* a series of objectionable and unwelcome sexual solicitations or advances; or
* one single sexual advance by a person in an authority position who should have known it was not welcome by the recipient; or
* a reprisal, retaliation or threat of retaliation for rejecting a sexual solicitation or advance; or
* a reprisal for filing a sexual harassment complaint.
* The unwanted behaviours may be physical or verbal.

Examples of behaviours that may constitute sexual harassment include, but are not limited to:

* unnecessary physical contact such as touching, patting or pinching
* demands for sexual favours in return for a promise of reward or a threat of reprisal
* unwelcome sexual remarks or jokes that put down one’s gender

Under the Manitoba Workplace Safety and Health Regulation, "violence" means the attempted or actual exercise of physical force against a person; and any threatening statement or behaviour that gives a person reasonable cause to believe that a physical force will be used against the person.

POLICY

Every employee is entitled to work in an environment that is respectful and free of all forms of harassment, including sexual harassment. Every employee has the responsibility to refrain from participating in behaviour that is, or could reasonably be perceived to be, disrespectful in nature. Disrespectful behaviour and harassment, including sexual harassment, will not be tolerated.

A respectful workplace requires cooperation and support from each and every employee in the organization. Everyone has a responsibility to set a positive example and behave in a manner which will not reasonably offend, intimidate, embarrass or humiliate others, whether deliberate or unintentional.

Application

This policy applies to all employees of [Organization Name] regardless of employment status. It also applies to all contractors and service providers to [Organization Name].

This policy applies to the workplace itself in addition to activities connected with the workplace such as travel, conferences, work-related social gatherings, or interactions at a client’s home or at a work site. It also applies to interactions between employees and interactions between employees and clients or the general public.

This policy does not limit the employer’s right to manage. Performance reviews, work assignment and evaluation, and disciplinary measures taken by the employer for any valid reason do not constitute disrespectful behaviour or harassment in the workplace.

**RESOLUTION PROCESS**

**Speak to the Other Person**

An impacted employee should approach the person who made them feel uncomfortable, calmly explain how their behaviour affected them and ask that the behaviour stop. The other person may not realize their behaviour has been offensive and the feedback may give them the opportunity to change their actions.

Should an employee require advice or support on how to approach the other person, their immediate supervisor, Human Resources, the Employee and Family Assistance Program, or their union/association may be able to assist. Should an employee wish, their immediate supervisor or another support person may accompany them when they approach the other person.

Employees who witness behaviour that may be contrary to this policy should safely and appropriately intervene. If it is not possible to do so, the employee must report their observations to their immediate supervisor. The employer cannot address a problem unless they are aware that a problem exists.

**Report It**

If an employee is unable to approach the other person, or if the employee has approached the other person but the issue remains unresolved, the employee must report their concern.

The concern can be reported verbally or in writing to the employee’s immediate supervisor. If the issue involves the employee’s immediate supervisor, the employee may report it to another level of management, up to and including the [Head of Organization’s Title; example: CEO].

Issues should be reported as soon as reasonably possible, normally within six months of the incident occurring.

**Participate in the Resolution Process**

The person to whom the issue is reported will determine if the allegations constitute a breach of the policy and if so, will endeavour to resolve the matter in an expeditious and confidential manner. Every issue reported and all actions taken to resolve the issue must be documented.

Most issues can be resolved between the parties involved with subsequent monitoring by management to ensure that there is no recurrence or retaliation. Options for resolution may include facilitated discussion, mediation, or education depending on the circumstances.

Not every reported issue warrants a formal investigation. In situations that pose a serious threat to the health and safety of the employee or others, or where allegations are denied or discipline is likely, a formal investigation may be required.

An investigation generally includes:

* interviewing the employee who reported the concern (the complainant)
* interviewing witnesses
* meeting with the person alleged to have acted inappropriately (the respondent) to present the allegations and receive their response
* determining the facts
* providing findings to management
* advising all individuals involved in the investigation, including witnesses, of the requirement to maintain confidentiality, except with respect to legal representation
* the complainant and respondent may be accompanied during the investigation process

If a person is found to have engaged in activities contrary to this policy, whether through an investigation or through direct observation, the employer will take progressive discipline, which may include progressive discipline up to and including dismissal.

Following the conclusion of an investigation, the employer will advise the complainant and the respondent of the results of the investigation in writing, while respecting privacy. The employer has the authority to dismiss the complaint, determine appropriate discipline, and/or take any action which may be necessary to resolve the issue. The details of any discipline administered will not be provided to the complainant or any witness interviewed in the investigation.

A summary of the investigation report will be provided to the applicable workplace safety and health representatives without disclosing the circumstances relating to the complaint or any information that could identify any employee/person involved with the matter.

**RESOLUTION PRACTICES**

Timeliness

Reported issues will be resolved as soon as reasonably possible. Investigations, where required, will be completed and results communicated as soon as reasonably possible. Should significant delays in the investigation be unavoidable, the respondent and complainant will normally be advised.

Workplace Restoration

Following the resolution of a reported issue, the immediate supervisor is responsible for ongoing monitoring to ensure this policy is followed.

Management will keep the details of any reported issue confidential to the best of their ability. However, confidentiality does not mean anonymity. Confidentiality is subject to the following limitations:

* A manager is responsible for addressing every reported issue.
* The person alleged to have acted inappropriately (the respondent) must be informed of the allegations in sufficient detail to make a full answer and defence.
* It may be necessary to interview witnesses.
* If the situation results in discipline, the disciplined employee has the right to appeal the progressive discipline with their supervisor.
* These limitations on confidentiality should not discourage employees from reporting a concern.

The employer will not disclose the name of a complainant, alleged respondent or the circumstances related to the issue to any person except where the disclosure is necessary to investigate, take progressive discipline, or is required by law.

At the request of the respondent, the employer may inform the individuals who were involved with the investigation that inappropriate conduct was found not to have taken place. This may be necessary where the reputation of the respondent was negatively affected by the complaint or investigation.

Reprisal

There shall be no reprisal against an employee who in good faith exercises rights under this policy. Reprisal is an actual or threatened harmful act. Reprisal not only involves penalizing someone, it can also be the withholding of a benefit.

False Allegations

If it is determined that a complaint was deliberately made for frivolous or vindictive reasons, the employee making the allegation may be subject to discipline. This does not apply to complaints made in good faith but which are not proven.

Rights

This policy is not intended to discourage or prevent an employee from exercising any legal right, including filing a complaint with the Manitoba Human Rights Commission or contacting the police.

**EMPLOYER RESPONSIBILITIES**

[Organization Name] will ensure the workplace is free from discrimination, harassment and violence by not tolerating or condoning these behaviours. This includes:

* Educating employees on this policy and its terms, reviewing the policy regularly, conducting risk assessments as required and providing appropriate training as needed;
* Addressing complaints via mediation and/or investigation. [Organization Name] reserves the right to utilize a third party in the investigation and/or decision stages of the process;
* Taking appropriate progressive and/or disciplinary action if necessary;
* Making the appropriate reports available as required, if applicable, to safety and health officers.

**MANAGER AND SUPERVISOR RESPONSIBILITIES**

Managers and supervisors are required to act immediately on observations or allegations of discrimination, harassment or violence. They are responsible for:

* Ensuring they offer an ‘open door’ to receive, discuss and move forward on allegations;
* Ensuring the immediate safety, if applicable, of any employee coming forward with a serious and immediate concern;
* Being aware what constitutes discrimination, harassment, and workplace violence and the procedures that are in place to deal with said allegations;
* Bringing forward allegations to higher levels of management immediately;
* If required, conducting or cooperating in the facilitation of an investigation; and
* Ensuring their actions adhere to the terms laid out in this policy.

**EMPLOYEE RESPONSIBILITIES**

Every individual to whom this policy applies has a responsibility to ensure that the working environment is free from discrimination, harassment, and violence by:

* Fostering an environment based on mutual respect and dignity by treating each other accordingly,
* Supporting this policy by refraining from any form of discrimination, harassment, and violence and not ignoring harassment in the workplace;
* Advising any member of management of an incident of apparent discrimination, harassment, and violence or any other incident of retaliation against any person for invoking this policy;
* Co-operating in an investigation and the handling of any complaints of discrimination, harassment, and violence; and
* Holding each other accountable.

*Important: Any manager, supervisor or employee who fails to meet their obligations as laid out in this policy may be deemed culpable and hence, may be subject to discipline accordingly.*