## WORKPLACE HARASSMENT & VIOLENCE PREVENTION

[Organization Name] is committed to ensuring the safety and security of all employees. In pursuit of this goal, [Organization Name] has established a zero-tolerance rule for harassment or violence in the workplace. If harassment or violence should occur, this policy also outlines the process for complaints and investigations. Should [Organization Name] become aware of an occurrence of harassment or violence in the workplace, an investigation will follow.

DEFINITIONS

As per the *Canada Labour Code* (CLC), harassment and violence mean “any action, conduct or comment, including of a sexual nature, that can be reasonably expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment.”

This definition includes all types of harassment and violence, including sexual harassment, sexual violence, and domestic violence.

POLICY

[Organization Name] is committed to ensuring a safe working environment, specifically one that is free from violence and harassment. In order to ensure employee safety, this policy will outline the following:

* Consultation with the Health and Safety Committee
* [Organization Name]’s commitment to preventing harassment and violence
	+ Including what harassment is and what harassment is not
* Workplace responsibilities
* Risk factors that could contribute to workplace harassment and violence
* Describe the complaint and investigation process
* Include the emergency procedures that must be implemented when:
	+ An incident poses an immediate danger to the health and safety of an employee
* Show [Organization Name]’s commitment to confidentiality
* The point of contact for employees for complaints regarding this policy or the CLC
* Measures for employee training

Consultation with the Health and Safety Committee

As [Organization Name] has between 20 and 299 employees, this policy shall be reviewed with the workplace committee on health and safety. The committee may make suggestions for changes and [Organization Name] will work with the committee on this. In the event that this policy needs to be amended for legislative changes, the committee will be informed and provided the chance to give feedback and suggestions.

Awareness of Violence and Harassment

Here are some of the ways that violence or harassment could manifest in the workplace (note that this list does not include every example; please speak with your supervisor/manager or HR representative if you have any doubt about the appropriateness of an action):

* Threatening behaviour, including verbal threats or abuse
* Aggressive behaviour, including encroaching on personal space
* Any sort of physical assault
* The spreading of malicious rumours or gossip about an individual or a group
* The social exclusion or isolation of someone or a particular group of people in the workplace
* Damaging, hiding, or stealing someone’s personal belongings or work equipment
* Persistently criticizing, undermining, belittling, demeaning or ridiculing someone
* Swearing at someone or using inappropriate language toward them
* Using the Internet to harass, threaten or maliciously embarrass someone
* Using the Internet to make sexual threats, or to harass or exploit someone sexually
* Abusing authority by publicly ridiculing or disciplining a subordinate
* Abusing authority by interfering with a subordinate’s performance or job (for example, blocking applications for leave, training or promotion in an arbitrary manner)
* Abusing authority by soliciting a sexual or romantic relationship from a subordinate, or making social invitations with sexual overtones to a subordinate
* Making abusive or derogatory remarks or jokes about someone’s gender, gender identity or gender expression, sex, or sexual orientation (for example, homophobic remarks)
* Sexual touching (for example, patting, pinching, caressing, kissing, fondling)
* Sexual invitations or requests in return for a promise of a reward (such as a promotion)
* Displaying offensive posters, cartoons, or images of a sexual nature
* Sending inappropriate electronic communications (for example, sexually explicit emails)
* Domestic violence (also called intimate partner violence, domestic abuse or relationship abuse) is a workplace hazard when it occurs in the workplace (it puts the targeted employee at risk and may pose a threat to coworkers)
	+ This list is sourced from the [Government of Canada](https://www.canada.ca/en/employment-social-development/programs/workplace-health-safety/harassment-violence-prevention.html)

The Exercise of Supervisorial/Managerial Duties

Nothing in this policy will limit the abilities of supervisors and managers to complete their duties provided they perform them in a respectful, professional manner in good faith. The exercise of supervisorial/managerial authority could include:

* Supervising employees, including setting out their performance expectations and providing feedback (both positive and constructive) about their work performance
* Taking measures to correct performance, including using performance improvement plans
* As necessary, taking disciplinary action
* Assigning work to employees and directing to them how and when it should be done
* Requesting updates or reports on the progress of the work
* Managing time off requests, including either approving or denying requests
* Where necessary, asking for medical documentation to support work absence(s)

Conducting a Risk Assessment in the Workplace

[Organization Name] will ensure that a risk assessment for violence and harassment is conducted every three years. At [Organization Name], the risk assessment will be conducted along with the health and safety committee.

When conducting the risk assessment [Organization Name] will take into consideration specific factors that may contribute to the risk of harassment or violence including:

* Working in a community-based setting
* Interaction with the public and/or working with unstable or possibly volatile clients.
* The exchange of money
* Working alone or in small numbers
* Working at night
* Working in a high crime area

As part of its assessment the organization may review records and reports (incident reports, health and safety inspection reports, etc.).

Employee and Supervisor/Managers Responsibilities

*Employees must:*

* Understand what constitutes workplace violence as defined in this policy and adhere to the organization’s zero tolerance requirement.
* Immediately report any incident of harassment or violence one is subject to or witnesses in accordance with the organization’s anti-violence program.
* Participate as required in internal and external investigations concerning incidents of workplace harassment or violence.
* Refrain from any retaliatory acts against any individual who has brought forward a complaint of harassment or violence.
* Attend and actively participate in training and education sessions regarding workplace violence or harassment.

All [Organization Name] employees have the responsibility to adhere to the contents of this policy and refrain from enacting or condoning any form(s) of harassment or violence. Further, all employees have the responsibility of fully cooperating in any investigations into complaints of harassment or violence.

*Supervisors/Managers must:*

* Assess the risk of workplace harassment and violence and implement procedures, response plans, and other controls to help minimize identified risks.
* Educate and train employees on this policy and program, response plans, and other controls established to protect employee health and safety.
* Ensure a copy of this policy is available to all employees.
* Take appropriate action(s) upon receipt of a complaint of workplace harassment or violence or when aware that workplace harassment or violence is occurring.
* Impose appropriate disciplinary measures in response to substantiated claims of workplace harassment or violence.

All members of management who are aware, or who ought reasonably to be aware that incidents of workplace harassment or violence are occurring or are thought to be occurring are obligated to take appropriate action to stop the offending behaviours and actions, even in the absence of a formal complaint.

Emergency Procedures

* If you require immediate assistance following an act of violence, are being threatened, or consider yourself to be in imminent danger, contact the police/emergency services immediately by dialing “911” and follow department/facility emergency response procedures (where relevant).
* If you are unable to phone 911 right away, you should:
	+ Yell for help.
	+ If in a vehicle, honk the horn repeatedly, turn on hazard lights and lock all vehicle doors.
	+ If possible, use the vehicle’s emergency alarm.
	+ Immediately move to a safe location.
	+ Contact a manager/supervisor.

Canada’s *Criminal Code* specifically lays out matters such as violent acts, sexual assault, threats, and behaviours such as stalking. In the event of any of the above, [Organization Name] will immediately contact the police.

Making a Complaint

* (Insert title) is designated to receive complaints related to this policy or any allegations of non-compliance with the CLC.
* The complaint may be made orally to the person above, either in-person or by phone at (Insert Phone Number) or in writing at (Insert Contact Information).
	+ In the event the person named above was a party to the contravention, an alternative is (Insert title).

At [Organization Name], complaints regarding harassment or violence may be brought forward to:

* (Insert Title) at (Insert Contact Information) or (Insert Title) at (Insert Contact Information).
* An alternate report may be made to (Insert Title) at (Insert Contact Information) if either of the above are the alleged harasser(s).
* Immediately upon receipt of a complaint, an investigation will begin, and additional information and context will be sought.
* The employee will be asked to fill out a form, in which they provide the following information:
	+ the name of the principal party and the responding party (if known)
	+ the date of the occurrence
	+ a detailed description of the occurrence

It is mandatory to know the name or identity of the principal party/respondent. If this is not divulged, [Organization Name] will not be able to proceed.

The identities of those involved will not be divulged to the policy committee or health and safety committee.

* The investigation may include:
* A review of the details of the incident;
* Separate interview(s) with the parties involved and any witnesses;
* Examination of any relevant documents, emails, notes, photographs, or video;
* A decision about whether the complaint constitutes workplace harassment; and
* The preparation of a report which summarizes the incident, the steps of the investigation, the evidence collected, and any findings

The employee who disclosed the complaint, as well as the alleged harasser (provided they are both employees of [Organization Name]), will be kept up to date on the investigation and will be notified of the results of the investigation and any subsequent actions to be taken.

[Organization Name] or the designated recipient must, within seven days after the day on which notice of an occurrence is provided, contact the principal party to inform them:

* that their notice has been received or that they have been named or identified as the principal party in notice provided by a witness, as the case may be;
* of the manner in which the workplace harassment and violence prevention policy is accessed (for reference);
* each step of the resolution process; and
* that they may be represented during the resolution process.

Note: If notice of an occurrence is provided by a witness who is not anonymous, [Organization Name] or the designated recipient must, within seven days after the day on which the notice is provided, contact the witness to confirm that notice was received.

On the first occasion that [Organization Name] or the designated recipient contacts the responding party regarding the occurrence, they must inform them:

* that they have been named or identified as the responding party in the notice of an occurrence;
* of the manner in which the workplace harassment and violence prevention policy is accessed (for reference);
* each step of the resolution process; and
* that they may be represented during the resolution process.

Reasonable Effort

[Organization Name] or the designated recipient, the principal party and, (if contacted), the responding party, must make every reasonable effort to resolve an occurrence and those efforts must begin no later than 45 days after the day on which that notice of occurrence was provided. However, if the occurrence is also investigated, it will not be resolved under this section once the investigator has provided their report.

This includes an assessment of whether the notice of occurrence constitutes harassment and violence.

Negotiated Resolution

Negotiated resolution is a form of informal resolution where the principal party meets with [Organization Name] or the designated recipient to:

* discuss the occurrence
* clarify what was submitted in the notice of occurrence, and
* attempt to reach resolution

During negotiated resolution, [Organization Name] will ask the principal party/complainant to meet, either in person or by phone, with (Insert Person). This meeting is for an initial discussion regarding the occurrence.

During this discussion, the notice of occurrence will be reviewed by (Insert Person) and the Principal Party against the definition of harassment and violence in the CLC. A determination will be made as to whether the occurrence meets the definition. If both agree that the occurrence does not meet the definition, then they will deem the occurrence resolved.

If (Insert Person) and the principal party do not agree as to whether the occurrence meets the definition, and the principal party wishes to continue with the resolution process, then the principal party has the option of either:

* continuing with negotiated resolution, or
* pursuing conciliation and/or an investigation

If the principal party wishes to continue with a negotiated resolution, they must inform (Insert Person) of this decision. A series of meetings will be scheduled with the principal party. At the meetings, the responding party will discuss the occurrence and attempt to achieve resolution. The responding party does not have to be informed of the principal party’s notice of occurrence (or be involved at this stage of the resolution process). Note: This is only if the principal party does not wish for them to be notified or involved.

Meetings may include:

* meetings with only the principal party and (Insert Person)
* meetings with the principal party, responding party, and (Insert Person)
* meetings between the principal party and (Insert Person) with concurrent but separate meetings between the responding party and (Insert Person)

Conciliation

The principal party and responding party may engage in conciliation at any time during the resolution process. However, conciliation can only proceed if both agree to engage in it. They must also agree on the person who will facilitate the conciliation. Note: conciliation can only proceed if an investigator has not provided their final investigation report.

The principal party and responding party are required to inform (Insert Person) of their desire to participate in conciliation. (Insert Person) will then commence discussion around the selection of a conciliator who is agreeable to both. (Insert Person) will also schedule time for both parties to meet with the conciliator.

Complaint Investigation Process

The investigation process will be initiated following unsuccessful negotiated resolution or conciliation or the principal party may request an investigation at any time during the resolution process.

The principal party/complainant must inform (Insert Person) that they wish to proceed.

(Insert Person) will:

* Provide notice of an investigation to the principal and responding party.
* Select an investigator from the list that has been jointly developed with the policy committee (if no policy committee, then an investigator may be selected by management).
* Then, the organization will appoint an internal or external investigator(s) to promptly conduct and document an investigation into the incident in which all facts are examined in a manner that is timely, fair and impartial.
* No person shall be appointed to the role of investigator where they have been named within a complaint.
* There must be an agreement for the investigator - if there is no agreement within 60 days after the day on which the notice is provided, a person from among those whom the Canadian Centre for Occupational Health and Safety identifies as having the knowledge, training and experience will be appointed.
* This information shall be known of the investigator:
	1. their name;
	2. if they are an employee of the employer, their job title and the name of their immediate supervisor;
	3. a description of their knowledge, training and experience demonstrating that they meet the requirements; and
	4. a description of any experience that they have which is relevant to the nature of the occurrence that is to be investigated.
* The investigator(s) will review this policy, the submitted complaint and supporting documents, and will meet with the Complainant to gather additional details and information regarding the incident(s).
* Individual(s) named in the complaint (known as Respondents) will be advised via written notification of the investigation. The notification will inform the Respondent of the alleged offensive action(s)/behaviour(s) made against them.
* The investigator will then meet with the Respondent to allow the individual to respond to the presented allegations and to gather facts and information.
* Where warranted, the organization may issue a paid administrative leave to the Respondent, Complainant, and any other party deemed necessary until the investigation is completed.
* Employees on paid administrative leave pending the results of the investigation must remain available to meet with the investigator and to return to work as requested.
* The investigator may also individually meet with witnesses and any other individual deemed necessary to provide additional evidence or context/information pertinent to the investigation.
* Once the investigator is satisfied with the amount of factual information collected from all parties, they will make a determination as to whether the allegation(s) are substantiated based on a balance of probabilities and where substantiated, make recommendations on any remedial action to be taken.
* The investigator will provide an investigation report which must include;
	+ a general description of the occurrence;
	+ a summary of the steps taken during the investigation,
	+ the complaint and allegations of the Complainant,
	+ the response from the Respondent(s),
	+ the evidence of any witnesses,
	+ any additional evidence gathered,
	+ findings of fact,
	+ the conclusion of the investigation, including any contributing factors, and
	+ any recommendations made to eliminate the risk of other occurrences.
* The Report will retain employee anonymity as necessary, including those who were involved in any part of the process.
* If the investigator deems a breach of the policy has occurred, the organization will take necessary progressive discipline where deemed appropriate to do so.
* If the results of the investigation do not substantiate that a breach of this policy has occurred, the allegations will be disregarded in any subsequent employment decision affecting the parties involved. This is the case except where there is repetition of the same allegation from the same or different parties, and in that case, further investigation and progressive discipline may occur. However, if after investigating any complaint the organization determines that the complaint is not genuine or that an employee has deliberately provided false information regarding the complaint, disciplinary action may be taken against the Complainant or the individual who gave the false information.
* If the Complainant disagrees with the outcome of the investigation, they will have the option to pursue recourse through the CLC.
* [Organization Name] will provide a copy of the investigator’s report to the principal party, responding party, the workplace committee and, the designated recipient.
* All parties involved in the investigation process, including the Complainants, Respondents, and witnesses are responsible for fully cooperating with the investigator(s) throughout the investigation process.

Resolution of Complaints

All occurrences/complaints under this policy will be resolved within one year after the day on which notice of the occurrence was provided.

Note: If the principal party or responding party is temporarily absent from work for more than 90 consecutive days after the day on which notice of the occurrence is provided, the resolution process will be completed within the later of:

* one year after the day on which notice of the occurrence is provided, and
* six months after the day on which the party returns to work.

Once the report is completed, the resolution process will continue with an updated assessment, the resolution of the complaint, and/or the implementation of the recommendations.

Monthly Status Updates

For every occurrence (for which notice is provided), [Organization Name] or the designated recipient must provide monthly updates regarding the status of the resolution process to the principal party, beginning on the first month after the month in which the notice is provided and ending on the month in which the resolution process is completed and the responding party, beginning on the first month after the month in which the responding party is first contacted by the employer or designated recipient concerning the occurrence and ending on the month in which the resolution process is completed.

Recommendations

[Organization Name] and the workplace committee must jointly determine which of the recommendations outlined in the report will be implemented and the timeline.

Employee Recourse

Employees can pursue multiple recourse avenues for their occurrence. This includes:

* pursuing recourse under the Canadian Human Rights Act with the Canadian Human Rights Commission, or
* pursuing recourse under the Criminal Code.

Confidentiality During and After the Investigation

[Organization Name] will ensure that it protects the privacy of any persons involved in:

* An occurrence; and/or
* The resolution process for an occurrence.

[Organization Name] will ensure that information and documents regarding a complaint or incident will not be disclosed except to the extent necessary to protect workers, to investigate the complaint or incident, to take progressive discipline or as otherwise required by law.

All parties involved in a workplace violence complaint, including Complainants, Respondents, witnesses, management, and support persons are expected to treat the matter and any information they become aware of as confidential. No party shall discuss the matter or associated details with other employees or witnesses. An employee may face disciplinary action if it is determined that they have failed to adhere to these confidentiality expectations.

All investigation notes and full reports will be retained in a separate file and are not to be saved in employee personnel files. Investigation outcome letters and disciplinary action will be saved in applicable employee files only when the complaint has been verified and is found to be in breach of this policy.

Availability of Support Measures

[Organization Name] will provide employees with information regarding the medical, psychological, or other support services that are available to them and are located close to their place of work and/or home.

Breaches of Policy

Any employee who is found to have breached this policy by engaging in violence or a form of reprisal; who breaches confidentiality expectations; fails to cooperate with an investigation; makes a complaint in bad faith or supplies falsified information will be subject to appropriate disciplinary action.

Disciplinary action may range from training, counseling, written warning, suspension, work transfer and termination of employment, depending on individual circumstances. Additionally, the organization may pursue criminal charges where warranted.

Review and Update of this Policy and Procedures

This policy will be reviewed by the employer and an applicable partner, jointly, and, if necessary, updated at least once every three years and following any change to an element of the policy. This policy and program will be reviewed after any harassment or violence occurrences to determine if changes are necessary.

The three year review will ensure that:

* the risk factors that were identified in the initial assessment are still applicable
* any new risk factors that contribute to harassment and violence in the workplace have been correctly identified, and
* the preventive measures in place are effective at adequately mitigating the risk of harassment and violence in the workplace

For the three year review, [Organization Name] will take into consideration all reports, studies, data and new information that may assist with:

* the identification of new risk factors, and
* the development of adequate preventive measures

Training on Violence and Harassment

Employees will receive instruction and training on the contents of this policy and the procedures contained within for complaints and investigations.

This training will take place within 90 days of an employee joining [Organization Name] and follow up training will be provided at least once every three years following. Additional training will be provided following any required updates to this training or if an employee’s role changes to one where there is either a specific or increased risk of violence or workplace harassment.

Note: The designated recipient will receive training prior to assuming their role under this policy and following the initial training, at least every three years.

[Organization Name] senior management/ownership will receive training upon the implementation of this policy and at least every three years following.

Annual Report to the Head of Compliance and Enforcement

[Organization Name] will complete an annual report to the Head of Compliance and Enforcement by March 1 of each year that includes the following (for each calendar year):

* the organization’s business name
* the organization’s business number
* the contact name (the person who completed the report)
* the total number of occurrences
* the number of occurrences that were related, respectively, to sexual harassment and violence and non-sexual harassment and violence
* the number of occurrences that resulted in the death of an employee
* if known, the number of occurrences that fell under each prohibited ground of discrimination set out in the Canadian Human Rights Act
* the locations where the occurrences took place, specifying the total number of occurrences that took place in each location
* the types of professional relationships that existed between the principal and responding parties, specifying the total number for each type,
* the means by which resolution processes were completed and, for each of those means, the number of occurrences involved
* the average time, expressed in months, that it took to complete the resolution process for an occurrence