## WORKPLACE HARASSMENT POLICY

[ORGANIZATION NAME] values an inclusive and respectful work environment free of harassment.

Harassment occurs when one employee acts in an objectionable manner toward another employee or group of employees with the knowledge that the behaviour will cause offence or harm. Harassment on the job is not acceptable, and allegations of harassment must be brought to the attention of management or human resources.

All personnel must conduct themselves in a manner that is respectful of the rights and dignity of everyone they come into touch with while doing their duties.

DEFINITION

Section 24 of *Newfoundland’s Occupational Health And Safety Act Regulations* gives the following definitions:

* **workplace harassment** means “inappropriate vexatious conduct or comment by a person to a worker that the person knew or ought to have known would cause the worker to be humiliated, offended or intimidated.
* **harassment prevention plan** means “a plan developed, implemented and maintained by an employer in accordance with the Regulation.”

SCOPE

This policy applies to harassment that is prohibited by the *Occupational Health and Safety Act Regulations in Newfoundland and Labrador.*

Age, ethnic origin, skin tone, religion, faith, sex, sexual orientation, gender identity, gender expression, disability, ethnic, national, or indigenous origin, family status, marital status, source of income, and political belief, association, or participation are all included on the list.

This policy applies to all [ORGANIZATION NAME] employees, volunteers, trainees, interns, and contractors.

Types of Harassment

* **Exclusion** occurs when an individual or group of individuals is shunned or ostracized. It may include, but is not limited to the following:
	+ isolating others through the cessation of communication;
	+ denying or dismissing their presence;
	+ alienating them from others; or
	+ purposely excluding them from decisions, conversations, and work-related events.
* **Physical harassment** is defined as any unwanted physical behaviour, such as threatening or offensive gestures, physical intimidation, coercion, assault, practical jokes, or "horseplay," that has a fair likelihood of producing discomfort or shame.
* When inappropriate behaviour is so persistent that it creates a hostile or offensive work environment, it is referred to as a **poisoned office environment**. The behaviour produces an uncomfortable work environment that is bad for everyone's well-being and productivity, not just one individual.
	+ Individuals who engage in or are complicit in demeaning behaviour can contribute to the development of a toxic work environment.
	+ The following are some instances of inappropriate behaviours that frequently contribute to a hostile or offensive work environment:
		- Inappropriate graffiti or postings
		- Remarks about a person's sexual orientation, religion, or race that are derogatory
		- Abuse of coworkers, including slurs, insults, and exclusion
		- Hurling objects, shouting, slamming doors, kicking desks, or slamming doors
		- Profanity or vexing language, even if not intended at a specific individual
		- Negative electronic messaging or cyberbullying with the intent of sullying others' reputations
* **Racial harassment** is an offensive behaviour motivated by an individual's race, colour, citizenship, country of origin, ancestry, ethnic origin, or creed. It encompasses, but is not limited to the following:
	+ Negative messages, images, or behaviours that are stereotyped (e.g. ethnic jokes, racial insults, unequal treatment, offensive depictions)
	+ Making disparaging remarks about or being intolerant of ethnic differences in look or manner of life
* **Sexual Harassment** is defined as any sexual conduct, comment, gesture, or touch that is obnoxious and causes offence or humiliation.
	+ Additionally, discrimination happens when sexual criteria are imposed on employment, education, or development, as well as the procurement of goods or services.
	+ The following are examples of inappropriate behaviours that may constitute sexual harassment:
		- Unwelcome physical contact, such as embracing or caressing
		- Inquiries or remarks concerning another person's sexual life
		- Telephone conversations, e-mails, notes, and messages on social media, as well as other forms of sexual engagement
		- Insults or jokes directed against a person's gender or sexual orientation with the intent of causing distress or humiliation
		- Unwelcome or persistent social or sexual advances that a reasonable person would identify as such
		- Unwelcome or impolite attention, leering or remarking on a person's physical characteristics or appearance
		- Physical assault or retaliation as a result of denying a sexual advance
* **Verbal harassment** is a pattern of disparaging remarks directed at or used against an employee that is reasonably expected to have a negative effect on the employee's professional reputation. This category includes insults, slurs, obscene or insulting remarks, innuendoes, profanities, and unflattering stereotypes.

Not Harassment

However, per the Regulation, a “reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is **not** workplace harassment.”

The following would be examples of acts not considered as harassment:

* Disagreements
* Conflict amongst coworkers, unless it is severe and prolonged
* Relocations, changes in coworkers, or changes in assignments
* Inadequate management or supervision
* A single remark or action, unless it is sufficiently severe and has a pernicious effect
* Imprudence, unless it is severe and pervasive
* Stressful work environments as a result of increased workload, technological advancements, or potential layoffs
* Management of performance.
* Appropriate management authority.
* Sufficient discipline

RESPONSIBILITIES OF WORKERS AND [ORGANIZATION NAME]

[ORGANIZATION NAME]

* Establish policies and procedures for preventing workplace harassment, including procedures for investigation and resolution.
* Conduct an investigation into an accusation of what this policy defines as workplace harassment.
* Resolve disagreements
* Determine the cause of the harassment and take steps to put an end to it.
* Take reasonable steps to address the consequences of the harassment and to prevent or limit future instances of harassment.
* Refer the investigation, if necessary, to an impartial person who was not directly involved in the incident or complaint, is not directly under the control of the person who is the subject of the complaint, or is not otherwise in a position to influence the person who is the subject of the complaint.
* Take into account the equality of all participants in the settlement process.
* Keep all discussions, interviews, or other proceedings relating to the settlement of the complaint secret.

Manager and Supervisor

* Assure an environment that is respectful and devoid of harassment.
* Communicate to employees the company's values and set an example of good behaviour.
* Require training in worker rights and promote optional training.
* Proactively handle workplace issues that, if ignored, may escalate into harassment.
* Be attentive to cultural differences and quick to respond in order to verify facts and intervene if they encounter or hear illegal behaviour.
* Ascertain that employees have access to the harassment policy.
* Discuss with the complainant any allegations of harassment in a timely, objective, and private manner.
* Complete the Complaint Information Form and submit it.
* Distribute to complainants a Complaint Response Form and a copy of this Policy.
* Facilitate dialogue or use other collaborative problem-solving strategies to resolve fundamental harassment allegations promptly.
* Consult Human Resources for assistance with more complicated instances, such as those involving conflict resolution.
* Adopt appropriate safeguards to preserve the complainant's safety, particularly if the alleged occurrences involve intimidation, aggressive threats, or actual physical harm. Distancing the parties may be necessary.
* Notify [INDICATE PERSON] of any allegations of harassment.
* Following a mediation session, monitor the workplace to confirm that harassment has ceased.

Employees

* Conduct yourself safely and professionally.
* At work, show consideration for others.
* Notify their supervisor, manager, or human resource representative if they have reason to believe an employee has been subjected to workplace harassment or retaliation for submitting a complaint.

As a complainant, the employee has the following responsibilities:

* Submit accusations of harassment, avoiding vexatious or false allegations.
* Complaint within X months of the alleged indiscretion.
* Determine the accused harassers' (Respondents) and witnesses' identities (Witnesses).
* Complete cooperation with the resolving method.
* Confidentiality should be maintained during any discussions, interviews, or other proceedings pertaining to the resolution of the complaint.

As a respondent, the employee is accountable for the following:

* Complete cooperation to follow the resolution method.
* Maintain confidentiality of any discussions, interviews, or other proceedings pertaining to the resolution of the complaint.
* Respect the Complainant, the Witness, and all other participants in the Harassment Complaints Resolution Process.

As a witness, the employee is responsible for the following:

* Provide the Harassment Complaint Resolution Process with a detailed description of the incidence.
* Maintain confidentiality of any discussions, interviews, or other proceedings pertaining to the resolution of the complaint.
* Notify [ORGANIZATION NAME] of any threats or retaliation you may have faced as a result of making a complaint.

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REPORTING, INVESTIGATION, AND RESOLUTION

* Employees who believe they have been the victim of workplace harassment should notify their immediate supervisor immediately. They may report harassment to the Manager if they are uncomfortable reporting it to their immediate Supervisor.
* Employees who wish to register a complaint of harassment should complete a Complaint Information Form and send it to their supervisor as well as to Human Resources.
* If the complaining employee has not completed a Complaint Information Form, the Supervisor/Manager will make the form and this Policy available to the Complainant.
* Within X working days of receiving a complaint claiming workplace harassment, the chosen responder will be informed of the allegations and provided with an opportunity to respond using a Complaint Response Form. There will be a discussion of the Workplace Rights Harassment Prevention Policy, and each respondent will receive a copy.
* After receiving and evaluating the Complaint Response Form, the Supervisor/Manager will interview the Respondent, ensure that a copy has been provided to Human Resources, and obtain any additional information not previously included on the form. This is feasible with the assistance of Human Resources.
* The Supervisor/Manager must advise the Respondent that relevant elements of the response will be shared with the Complainant and that a procedure for addressing the complaint will be established. Remind the Respondent of the support program that is available.
* When supervisors/managers determine that a complaint is difficult, they notify Human Resources and forward any paperwork acquired during the initial interviews.

Officer’s Power

The officer may issue an order to [ORGANIZATION NAME] in accordance with the Regulation if the officer has reason to believe that [ORGANIZATION NAME]:

* has failed to establish a written policy on workplace harassment that complies with the Regulation's requirements;
* has established a harassment policy that is inconsistent with the Regulation's requirements;
* has failed to follow the harassment policy when responding to a complaint of workplace harassment; or
* has failed to take reasonable measures to address a complaint of workplace harassment,

When an officer determines that harassment occurred in the workplace and the employer fails to decide on necessary corrective measures or to take the necessary steps to implement the progressive discipline, the officer may order the employer to take whatever steps are necessary to remediate the harassment and prevent future occurrences.

An Investigation by an Impartial Person

In addition to the officer's jurisdiction under the Regulation, the officer may issue an order ordering [ORGANIZATION NAME] to pay for the investigation of a harassment accusation by an impartial person with the appropriate knowledge, experience, or other qualifications.

After a [ORGANIZATION NAME] or an officer directs an investigation to an impartial person, the impartial person shall decide whether workplace harassment occurred and may recommend progressive discipline to [ORGANIZATION NAME].

[ORGANIZATION NAME] Determination

After considering the recommendations of the impartial person, it is the employer's responsibility to take and implement the progressive discipline that is necessary under the circumstances.

Confidentiality

Because harassment allegations are serious and sensitive, they must be processed and resolved in a private way. Complainants, responders, managers, supervisors, and witnesses are not permitted to disclose the specifics of the complaint with anybody other than approved sources such as union representatives, legal counsel, or other individuals capable of assisting them.

Interview notes and other material may be released during arbitration or a hearing before the Newfoundland Human Rights Commission if the Investigator's findings result in formal disciplinary action.