

Addressing Harassment, Discrimination, and Violence in the Workplace – A Quick Guide for Employers in Nunavut

A guide for legal and wellness support

WARNING:

This document is about harassment and violence in the workplace. You may find the information to be upsetting because of the difficult topic. We encourage you to take any steps that you need to emotionally prepare yourself. We also encourage you to think about what care you might need after reading. Resources for support can be found on the Law Society of Nunavut website: lawsociety.nu.ca/en/prevention-harassment.



What laws and regulations deal with workplace harassment, discrimination and violence?

- The *Safety Act*, RSNWT (Nu) 1988 C s-1
- The *Occupational Health and Safety Regulations*, Nu Reg 003/2016
- The *Human Rights Act*, S Nu 2003 c.12

What is Workplace Harassment?

Workplace harassment is defined by the law as vexatious comments or conduct in the workplace that is known, or should be known, to be unwelcome, and is a threat to the health or safety of the worker. Vexatious comments are comments that cause or tend to cause annoyance, frustration, or worry. Often, it is a series of repeated incidents, but it is possible for one incident to be serious enough to be harassment. Harassment can include, but is not limited to:

- bullying;
- threats;
- insulting comments, jokes or gestures;

- isolating someone sabotaging their work;
- destroying someone's property;
- ridicule or gossip;
- revenge against someone for being involved in a complaint or investigation under a harassment policy.

Some specific types of harassment include:

- **sexual harassment:** includes inappropriate comments, gestures, physical contact, propositions, or materials of a sexual nature in the workplace. This includes actions directed at a particular person, or made openly in the workplace. It also includes degrading comments or behaviour based on gender.
- **discriminatory harassment:** harassment that refers to a protected personal characteristic, such as race, colour, ancestry, ethnic origin, citizenship, place of origin, creed, religion, age, disability, sex, sexual orientation, gender identify, gender expression, marital status, family status, pregnancy or lawful source of income or conviction for which a pardon has been granted. It does not matter whether the person intended to discriminate; what matters is that the discrimination occurred.



Workplace harassment can happen:

- at work during work hours;
- between workers and non-workers while working, such as a customer or a contractor; as well as
- outside of the workplace and after work hours, but are connected to work. For example, a holiday party or a work conference.

Can management decisions be considered workplace harassment?

Reasonable actions taken by an employer or supervisor relating to the day-to-day management and direction of the workers or of the workplace is not considered harassment. Examples of reasonable actions by management include but are not limited to:

- work assignments;
- job assessments or evaluations;
- offering guidance, feedback or advice;
- workplace inspections;
- implementing or enforcing workplace policies and procedures; and
- disciplinary action.

Some of these actions, particularly disciplinary action, may require a manager or a supervisor to be stern or to provide objective criticism, but they generally are not considered harassment. However, if these actions involve an abusive or discriminatory element, it could be considered harassment. Examples of management decisions that might be considered harassment include:

- yelling at or humiliating the worker
- calling the worker vulgar or degrading names; or
- deliberately making the worker feel insecure.

What are your obligations as an employer?

Employers are responsible for ensuring the health and safety of their workers is not endangered and providing a safe and healthy workplace. Employers must:

- create a harassment policy and clearly communicate the procedures for responding to harassment;
- train supervisors and managers on identifying what behaviour might be considered harassment in the workplace and how to follow the process and procedures of the harassment policy;
- encourage all workers to report any incidents of harassment to either their supervisor, manager or Human Resources so that it can be promptly addressed;
- ensure there is a process for protecting the worker who is experiencing harassment, such as stopping the harassment and implementing the appropriate accommodation measures or corrective action;
- take all reasonable steps to prevent harassment that is connected to the workplace or a worker's employment, including:
 - incidents that may arise in the workplace and during work hours;
 - incidents that occur between workers and non-workers with whom the worker interacts within the course of their employment (i.e. contractor, visitor, customer); and
 - incidents that take place outside of the workplace and after work hours, but that are connected to the worker's employment (i.e. holiday party or a conference).
- ensure that managers and supervisors:
 - report any incidents or alleged incidents of harassment promptly to the employer (or individuals identified in the harassment policy to receive reports of a complaint);
 - facilitate the resolution of reports of harassment complaints where appropriate;
 - assist the employer in ensuring that workers who have made reports of a complaint or participated in complaint investigations are protected from reprisal and retaliation;
 - assist in providing workers with any accommodation that may be required as a result from a report of a harassment complaint or investigation.

Employers must not discourage or prevent workers from pursuing their legal rights, and should instead take all reports of complaints seriously, following set procedures.

Creating a workplace policy on harassment and discrimination:

When creating a workplace policy on harassment and discrimination, the employer may wish to consult the employer's Joint Health and Safety Committee (if there is one in the workplace) when drafting a harassment policy to determine appropriate procedures.

The *Occupational Health Safety Regulations Reg 003/2016 Section 34(4) and 34(5)* require the workplace policy on harassment to include the following elements:

- a definition of harassment that is consistent with the law;
- a statement that each worker is entitled to work free of harassment;
- a commitment that the employer will make every reasonable effort to ensure that workers are not subjected to harassment;
- a commitment that the employer will take corrective action respecting any individual who subjects any worker to harassment;
- an explanation of how harassment complaints may be brought to the attention of the employer;
- a statement that the employer will not disclose the name of a complainant or an alleged harasser or the circumstances relating to the complaint to a person unless disclosure is:
 - necessary for the purposes of investigating the complaint or taking corrective action with respect to the complaint, or
 - required by law.
- a description of the procedure that the employer will follow to inform a complainant and alleged harasser of the results of an investigation; and
- a statement that the employer's harassment policy is not intended to discourage or prevent a complainant from exercising other legal rights.

Policies should also inform workers that there will be no penalties for any complaints that are brought in good faith, even if it does not result in a finding of harassment.

Employers should look beyond legal requirements of harassment policies to ensure that the workplace is healthy, safe and respectful to all workers. Employers must make the policy readily available to its workers. Employers should also review their policies regularly to determine whether updates/revisions should be made.

See Appendix A pg. 8 for a sample template for a policy on workplace harassment and discrimination. Employers should customize their policies to suit the operational context of their workplace.



What is Workplace Violence?

Workplace violence is any threat, attempt, or actual conduct of an individual that causes, or could cause injury. Examples of violent workplace behaviour include, but are not limited to:

- physical or verbal assault or abuse which can include:
 - hitting
 - shoving
 - pushing
 - kicking
 - inappropriate physical closeness or contact
- threatening behaviour such as:
 - shaking fists
 - destroying property
 - throwing objects
 - derogatory or inappropriate jokes
 - verbal or written threats that can be insulting or taunting, swearing,
 - condescending language
 - any expression of intent to inflict harm

Workplace violence is not limited to conduct between workers. Workplace violence can also include behaviour or conduct relating to a personal or domestic dispute that finds its way into a workplace. For example, if an employer is aware that a worker is dealing with family violence (domestic violence) at home, and that there is a reasonable risk that the abuser may try to harm the worker at work, the employer must take reasonable steps to protect the workers.

What are your obligations as an employer?

Workplace violence in Nunavut is addressed by the *Safety Act*, RSNWT (Nu) 1988 C s-1 and the *Occupational Health Safety Regulations* Reg 003/2016. As an employer, you are responsible for:

- assessing the risks of workplace violence that may arise at a particular workplace and conduct reassessments of these risks as often as necessary.
- ensuring workers are informed of the nature and extent of risk from violence;
 - For example, if a worker can be expected to encounter a person with a history of violent behaviour, and is likely to be exposed to physical injury at work, the employer may have to provide the necessary personal information about that person to the worker.
- providing for the proper procedures for reporting emergencies and imminent threats of violence.
- taking all reasonable steps to prevent violence (including domestic violence) that is connected to the workplace or a worker's employment, including:
 - incidents that may arise in the workplace and during work hours;
 - incidents that occur between workers and non-workers with whom the worker interacts within the course of their employment (i.e. contractor, visitor, customer); and
 - incidents that take place outside of the workplace and after work hours, but that are connected to the worker's employment (i.e. holiday party or a conference).
- ensuring workers are trained on the procedures of the workplace violence policy, if there is one, including how to report violence, and calling the RCMP in an active situation.

Employers must not discourage or prevent workers from pursuing their legal rights, and should instead take all complaints seriously, following set procedures.

Creating a policy on workplace violence

The legislation requires employers to develop and **implement a policy to deal with workplace violence if violence** has occurred or could reasonably be expected to occur in the workplace. The legislation lists some specific workplaces where violence may reasonable be expected to occur:

- services provided by health care facilities
- pharmaceutical dispensing services
- educational services
- police services, corrections services, and other law enforcement services
- security services
- crisis intervention and counselling services
- financial services
- places where alcohol is sold and/or consumed
- taxi services
- transit services

However, all employers should consider whether their workplace should have a policy on workplace violence, based on whether violence has occurred or could reasonably be expected to occur at the workplace.

Section 35(2)(3)(4) of the *Occupational Health Safety Regulations* Reg 003/2016 provides what employers should consider when developing and implementing a written policy to deal with potential violence in the workplace. A policy on workplace violence should include:

- a commitment that the employer will eliminate or reduce the risk of violence at the work site;
- the identification of the work site or work sites where violence has occurred or could reasonably be expected to occur;
- the identification of staff positions at the work site that were, or could reasonably be expected to be, exposed to violence;
- the procedure to be followed by the employer to inform workers of the nature and extent of risk from violence, including information in the employer's possession about the risk of violence, including information in the employer's possession about the risk of violence from individuals who have a history of violence behaviour and whom workers are likely to encounter in the course of their work, unless the disclosure is prohibited by law;
- the actions the employer will take to eliminate or reduce the risk of violence, including the use of personal protective equipment, administrative arrangements and engineering controls;

- the procedures to be followed by a worker who is exposed to violence to report the incident to the employer;
- the procedure the employer will follow to document and investigate violence reported under paragraph (f);
- a recommendation that a worker who has been exposed to violence consult the worker's physician for treatment or referral for post-incident counselling;
- the employer's commitment to provide training programs for workers that include:
 - the means to recognize potentially violent situations;
 - procedures, work practices, administrative arrangements and engineering controls to eliminate or reduce the risk of violence to workers;
 - the appropriate responses of workers to violence, including how to obtain assistance, and
 - procedures for reporting violence.

The policy on violence in the workplace should also include the proper procedure for the reporting of emergencies and imminent threats of violence. For example, in an active situation, workers should immediately call the RCMP.

Policies should also inform workers that there will be no penalties for any complaints that are brought in good faith, even if it does not result in a finding of violence.

Employers should review their policies regularly to determine whether updates/revisions should be made.

It is not uncommon for an employer to include the workplace violence policy in the workplace harassment policy. See Appendix B pg. 13 for a sample template for a policy on workplace violence. Employers should customize their policies to suit the operational context of their workplace.

Training Staff on Responsibilities Relating to Workplace Harassment and Violence:

Workers should receive training on the policies and be encouraged to report any incidents of violence or harassment to the employer so that they can be promptly addressed. Even if a worker decides to stop pursuing their complaint, the employer may still be required to carry out an investigation to ensure a safe and healthy workplace.

Employers are encouraged to ensure that managers and supervisors play an active role in the prevention of workplace harassment. Employers should ensure that supervisors and managers receive training to:

- ensure that supervisors and managers know and follow the harassment policy, and set a positive example of a respectful workplace that is free from harassment;
- know how to engage workers in discussion and training on following the harassment policy;
- report harassment and facilitate resolutions where appropriate; and
- ensure workers who report cases of harassment are protected from reprisal or retaliation of any form and provide job accommodations to the worker where appropriate.

If there is a workplace violence policy, employers should ensure that workers are trained on the procedures of the workplace violence policy, including how to report violence, and calling the RCMP in an active situation.



Accommodation During an Investigation

When employers receive a workplace violence or harassment complaint, employers should immediately think about whether any job accommodation is needed while the investigation is ongoing. This is especially if the worker normally works with the person they have complained about, or if the worker reports to the that person. A job accommodation is an adjustment to a job or work environment that makes it possible for an individual to perform their job duties safely. Accommodations in a workplace violence or harassment situation could mean modifications to the work environment or adjustments to work schedules or responsibilities to keep the worker safe.

Examples of accommodation measures might include:

- Temporary change in work schedules or shifts such that the person who made the complaint and the person about whom they complained do not work at the same time;
- A temporary transfer of the person who made the complaint to another work location or department;
- Leave with pay if the person who made the complaint is unable to go into the workplace (such as for medical reasons associated with the allegations);
- Temporary suspension with pay of the person against whom the complaint was made, in order to remove them from the workplace.

After the investigation, the employer may also need to think about accommodation measures.

For example, the worker may require a gradual and supported return to work, with the assistance of counselling or other supports. It is also possible that the worker might remain in another department or at another work location for the long term, particularly if the person they complained about was their supervisor at the time the complaint was brought forward.



Templates for Policies on Workplace Harassment, Discrimination, and Violence

Two policy templates are provided:

1. Template Policy on Workplace Harassment and Discrimination (Appendix A)
2. Template Policy on Workplace Violence (Appendix B)

These policy templates are intended to help employers in Nunavut create their own policies on harassment, discrimination and violence in the workplace. The templates should be adapted to suit the specific workplace.

APPENDIX A

Template Policy on Workplace Harassment and Discrimination

- Items in **red text** are elements required by legislation or regulation although different wording can be used.
- Items in **black text** are recommended as good workplace practice.

Effective Date: [year-month-day]

1. Statement of Principles

[EMPLOYER] recognizes that harassment and discrimination are degrading, offensive, and harmful to individuals, and disruptive to the workplace, as well as against the law.

In support of a healthy, safe and respectful workplace, [EMPLOYER] is committed to:

- **providing a work environment free of harassment and discrimination that promotes equality and ensures that all individuals are treated with respect and dignity;**
- **making every reasonable effort to ensure that workers are not subjected to harassment or discrimination;**
- **taking any action needed to deal with incidents and complaints of harassment and discrimination;** and
- providing support to those who report harassment or discrimination.

[EMPLOYER] is committed to protecting the safety and well-being of its staff. Harassment and discrimination will

not be tolerated. Any individuals found to have engaged in harassment or discrimination may be disciplined, regardless of their seniority.

[EMPLOYER] recognizes that workers may be subjected to harassment or discrimination by people who are not staff, such as [customers/clients/etc.]. [EMPLOYER] acknowledges its responsibility to support and assist its workers if they experience such harassment or discrimination and its responsibility to take steps to stop the behaviour.

Workers of [EMPLOYER] are also prohibited from engaging in harassment and discrimination against [clients/customers/suppliers/contractors etc.]. [EMPLOYER] acknowledges its responsibility to address such behaviour.

2. Objectives

This policy is meant to:

- foster and maintain a healthy, safe and respectful working environment, where all staff understand their role in treating each other with mutual respect;
- make sure that everyone understands that harassment and discrimination will not be tolerated and are considered serious offences for which necessary action will be taken;
- provide a procedure to deal with complaints of harassment and discrimination; and
- provide information about the actions that may be taken when a complaint of harassment or discrimination has been made.

This policy is not meant to discourage or stop a person from exercising other legal rights.

3. Application of Policy

People: This policy applies to:

- all staff of [EMPLOYER];
- all [contractors / board members / volunteers / trainee / students / janitorial staff / others] who are involved in the work of [EMPLOYER]; and
- all employment and client relationships in the [EMPLOYER] workplace, including [clients/ customers/as applicable].

Activities: This policy applies to all aspects of the workplace. This includes hiring, training, promoting, transferring, providing compensation and reviewing performance.

Workplace: In this policy, “workplace” is defined under section 4 Definitions.

4. Definitions

“Concerned person” means a person who believes they have experienced harassment.

“Discrimination” means treating someone differently, whether intentional or not, in a way that:

- is not based on a material fact or facts;
- imposes a burden or disadvantage on a person or group of people, or results in the denial of a benefit to a person or group of people; and
- is based on one or more of the prohibited grounds of discrimination (see “prohibited grounds”).

However, an activity meant to improve the conditions of disadvantaged persons and/or groups is NOT discrimination.

“Harassment” means comments or behaviour at a workplace that is known, or that most people would know to be unwelcome, and is a threat to the health or safety of a worker.

- Harassment is repeated behaviour, comments, display, actions or gestures.
- Harassment can also be a single, serious incident of behaviour or a comment, display, action or gesture that has a lasting, harmful effect on the worker’s health or safety.
- It does not include feedback from a supervisor about the standard of work or workplace behavior, or other reasonable action taken by [EMPLOYER] relating to the management and direction of the workers or of the workplace.

“Prohibited grounds” means any of the following:

- race,
- colour,
- ancestry,
- ethnic origin,
- citizenship,
- place of origin,
- creed,
- religion,
- age,
- disability,
- sex,
- sexual orientation,
- gender identity,
- gender expression,
- marital status,
- family status,
- pregnancy,
- lawful source of income, or
- a conviction for which a pardon has been granted

“Respondent” means the person against whom a complaint of harassment or discrimination has been made.

“Sexual harassment” is a type of harassment, involving conduct, comments, or gestures of a sexual nature that are offensive or unwelcome. It also includes:

- conduct or comments focused on sex, sexual orientation, gender identity, gender expression, marital status, family status, or pregnancy, where the course of comment or conduct is known or should reasonably have been known to be unwelcome;
- comments or conduct that a person might reasonably see as placing a condition of a sexual nature on their employment, or an opportunity for training or promotion; and
- sexual comments, gestures, materials, propositions that create an intimidating, hostile, degrading, humiliating, or offensive environment in the workplace.

“Workplace” covers any place and interactions that are related to work, including:

- any place where the business of [EMPLOYER] is conducted. This includes permanent and temporary facilities, and all places connected with duty travel, including airplanes, hotels, airports, etc. It also includes email, videoconferencing, teleconferencing and social media;
- any place where social and/or functions related to the business of [EMPLOYER] happen, including homes and other private accommodations, where applicable;

- activities that are connected to the business of [EMPLOYER];
- incidents that happen after the official business of a meeting but are connected to the meeting; and
- conduct outside of the workplace which is likely to negatively impact the business of [EMPLOYER], including public spaces and social media.

EXAMPLES OF HARASSMENT AND DISCRIMINATION AT THE WORKPLACE

- unwelcome remarks, jokes, slurs, innuendos or taunting based on a person's place of origin;
- belittling a worker's disability;
- refusing to work or interact with a worker based on a person's race;
- sexist, racist, homophobic and transphobic jokes;
- intentionally and repeatedly using the incorrect pronouns for a person or misgendering a person;
- sexually suggestive or offensive comments, remarks or gestures;
- unwelcome physical contact, such as unwanted touching;
- a manager making a sexual proposition to a worker who reports to that manager;
- demands for dates or sexual favours, when a person knows or ought to know that they are unwelcome;
- sexual and/or offensive e-mail messages;
- comments, signs, caricatures, or cartoons displayed in the workplace that depict minority racial or religious groups in a demeaning manner;
- demeaning racial remarks, jokes or innuendoes about a worker told to other employees,
- racist, derogatory or offensive pictures, graffiti or materials related to race or other grounds such as ethnic origin;
- delivery of racist and/or offensive e-mail message or exchange of racist and/or offensive message through any form of communication, including social media such as twitter or Facebook;
- repeated slurs directed at the language and accent of a particular group; and
- constant unwelcome remarks based on false assumptions about a person's background or beliefs.

5. Confidentiality

Subject to the duty to protect and promote safety in the workplace, confidentiality is maintained throughout the process for dealing with harassment and discrimination.

[EMPLOYER] will not disclose the name of a concerned person, respondent or the circumstances relating to the complaint to a person, unless disclosure is:

- necessary for the purposes of investigating the complaint or taking corrective action with respect to the complaint; or
- required by law

6. Retaliation, Reprisals, and Bad Faith Complaints

Any staff [customer/contractor/etc.] of [EMPLOYER] has the right to make a complaint of harassment or discrimination or exercise their rights under this policy without threats of reprisals, reprisals or retaliations. Threats, reprisals or retaliations in relation to this policy are prohibited.

Any person who retaliates against a person reporting harassment or discrimination may have action taken against them, including disciplinary action.

Any staff [customer/contractor/etc.] of [EMPLOYER] who makes a malicious or bad faith complaint is in violation of this policy. A malicious or bad faith complaint means that a person has made a complaint under this policy that the person knew was untrue. Submitting a complaint in good faith, even where the complaint cannot be proven, is not a violation of the policy.

7. Roles & Responsibilities

[EMPLOYER] is responsible for providing all staff, [customers/contractors/etc.] with a

Harassment and discrimination free workplace.

All staff of [EMPLOYER] are expected to contribute to a safe, healthy and respectful workplace by:

- taking care to maintain a workplace where the worker and all other persons are respected and safe, including through respectful conduct and speech;
- not engaging in harassment or discrimination in the workplace;
- reporting any situation of harassment or discrimination that they witness, and cooperating in any investigation of a complaint of harassment or discrimination; and
- following this policy and procedures.

All [Managers/Supervisors/etc.] have a duty to act immediately if they observe harassment or discrimination, or receive a complaint about harassment or discrimination.

They are responsible for creating a work environment that is free of discrimination and harassment. They should, whenever possible, address issues before they escalate.

[Applicable internal resource] is responsible for:

- the administration of this policy and procedures;
- providing information about the policy and its procedures to any person who is concerned about possible harassment or discrimination within the workplace;
- reviewing this policy and procedures as required;
- making necessary adjustments to ensure that the policy and procedures meet the statutory requirements and the needs of the workplace;
- fostering a harassment and discrimination free work environment and setting an example for appropriate workplace behavior; and
- in the case of a complaint filed against [applicable internal resource], accepting the outcomes of an external investigation, including findings and resolutions recommendations, by a neutral investigator.

[Applicable external resource] is available to [EMPLOYER] as a neutral resource for:

- providing information about the policy and its procedures to any person who is concerned about possible harassment or discrimination within the workplace;
- ensuring that the procedures are applied in a timely, consistent and confidential manner as provided by law;
- conducting an investigation to make a finding of fact about a complaint of harassment or discrimination; and
- recommend corrective action where appropriate, if harassment or discrimination has been found.

[Include additional roles & responsibilities as necessary]

8. Workplace Harassment and Discrimination Procedures

Any concerned person experiencing what they believe to be harassment or discrimination is encouraged, where reasonable, to bring this to the attention of the person who is responsible for the conduct (respondent).

However, they are not required to do so. If speaking to the respondent about their unwelcome conduct is difficult, or if the behavior does not stop, the concerned person is encouraged to seek support from their supervisor, co-worker, or [applicable internal resource].

Telling a person that their conduct is unwelcome is not harassment or insubordination.

A person who belittles the concern or the person who is objecting may be engaging in harassing behavior.

Workers may approach [applicable internal resource] to complain about harassment or discrimination [by ... add any relevant additional details]. If the complaint is against [applicable internal resource], the worker should approach [applicable external resource], who will follow a similar process, except where noted.

Anyone who witnesses behavior that they believe goes against this policy should report the behavior to someone in authority. The witness may be interviewed if an investigation is undertaken.

8.1 Informal Procedure

Once a person has approached [applicable internal resource] about harassment or discrimination, [applicable internal resource] will provide the concerned person with access to this policy and procedure, as well as information about:

- the right to make a formal complaint;
- the availability of counselling and other support services offered by [EMPLOYER];
- any options regarding representation by legal counsel or other person of choice;
- the right to withdraw from any further action in connection to the complaint at any time and that if they do withdraw, the process might still continue; and
- any other options available to the concerned person including the Nunavut Human Rights Tribunal.

Where appropriate, [applicable internal resource] will offer an opportunity to informally resolve the issue, including through mediation. However, no person is required to resolve the issue informally.

If the concerned person and the respondent are able to resolve the issue, [applicable internal resource] will make a confidential written record of the resolution, which will be stored in a locked filing cabinet and/or in an electronic database that is password protected at [EMPLOYER]. The written record may be signed by both parties and both parties may also be given a copy of the resolution.

An anonymized account of the events and their resolution may be published internally.

At the discretion of [applicable internal resource], an arrangement to follow up with the parties may be made to ensure that the resolution is working.

While [EMPLOYER] is committed to resolving incidents of harassment and discrimination internally, **nothing in this policy should be read as stopping a person from pursuing other options, including the Nunavut Human Rights Tribunal.**

8.2 Formal Procedure for Complaints

A concerned person may make a formal complaint at any time.

If the concerned person decides to make a formal complaint, the complaint must be made to [applicable internal resource]. If the complaint involves [applicable internal resource], the complaint must be made to [applicable external resource] who will engage a neutral investigator.

At any time after a formal complaint has been filed, the concerned person may make a request for temporary work accommodation until the process comes to an end. Every effort will be made to reasonably accommodate the concerned person.

8.2.1 Investigations

Once a formal complaint has been made, an investigation will be conducted to make a finding.

At any stage of the process, [applicable internal resource] may decide that there is reason to proceed with an external investigation using the services of [applicable external resource]. If a complaint has been made against [applicable internal resource], the investigation must proceed as an external investigation using a neutral investigator. The external investigation follows the same investigation process as the internal investigation, with exceptions noted below.

[Outline any additional steps for the investigation]

Any investigation process under this policy follows accepted principles of fairness, including the following:

- impartiality;
- the right to know the allegation, usually in the form of a summary, so the respondent can make full answer/defence;
- the right to offer evidence and witnesses to support the investigation; and
- the right to counter evidence.

After the investigation, [applicable internal resource] will make a decision about whether the policy has been violated and what action will be taken as a result of the findings.

The concerned person who made the complaint and the respondent will be informed of the outcome of the investigation and any decisions about whether the policy has been violated.

If the complaint involved [applicable internal resource], the findings will be presented to [applicable external resource]. [Applicable internal resource], [applicable external resource] and the neutral investigator will meet to discuss the recommendations of the final report and plan for appropriate resolution to be undertaken by [EMPLOYER].

Depending on the outcome of the investigation, actions may be taken to remedy the situation, including:

- an apology
- education
- counselling
- verbal or written reprimand
- transfer
- a financial penalty
- suspension with or without pay, or
- dismissal, including dismissal without notice

Disciplinary actions that involve a financial penalty, suspension or removal from [EMPLOYER] will be approved by [applicable internal resource] as applicable.

The results of the investigation will be communicated to the concerned person and the respondent by [outline details, including what information will be shared and how confidentiality will be maintained].

If the complaint is not affirmed, documentation under this policy will not be placed in any personnel file.

If the complaint is affirmed, a confidential summary of the outcome of the proceeding will be placed in the respondent's personnel file.

All other documentation under this policy will be kept in a locked filing cabinet and/or in an electronic database that is password protected at [EMPLOYER].

8.2.2 Appeal Process

The decision following a finding of harassment or discrimination under these procedures is final. A respondent who is disciplined can take the matter to court.

8.2.3 Reporting

[Applicable internal resource] will report annually to [the Board] the number and types of complaints handled and their outcomes.

9. Where this Policy can be Found

A copy of this policy is available at [website link] and will be posted at [indicate location/staff room bulletin board, etc.]

Questions about this policy and procedures can be made to [applicable internal resource].

APPENDIX B

Template Policy on Workplace Violence

- Items in **red text** are elements required by legislation or regulation although different wording can be used.
- Items in **black text** are recommended as good workplace practice.

1. Statement of Principles

In support of a healthy, safe, and respectful workplace, [EMPLOYER] is **committed to eliminating or reducing the risk of violence in the workplace**, including:

- promoting a violence-free workplace and protecting its workers from workplace violence;
- investigating incidents of reported workplace violence in a manner that is fair and timely;
- taking action to deal with incidents and reports of workplace violence;
- providing support to those who report workplace violence; and
- **training programs for workers that include:**
 - **how to recognize potentially violent situations**
 - **procedures, work practices, administrative arrangements, and engineering controls (physical controls or barriers that isolate or remove an infectious disease hazard) to eliminate or reduce the risk of violence to workers**
 - **how to respond to violence, including how to get assistance**
 - **procedures for reporting violence**

[EMPLOYER] is committed to protecting the safety and well-being of its workers. Workplace violence will not be tolerated. Any individuals found to have engaged in violence may be disciplined, regardless of what their seniority may be.

[EMPLOYER] recognizes that workers may be subjected to workplace violence by people who are not staff, such as [customers/clients/etc.]. [EMPLOYER] acknowledges its responsibility to support and assist its workers if they experience such violence, and its responsibility to take reasonable steps to eliminate or reduce the risk of violence.

Workers of [EMPLOYER] are also prohibited from engaging in workplace violence against [clients/customers/supplies/etc.]. [EMPLOYER] acknowledges its responsibility to address such behaviour.

2. Objectives

This policy is meant to:

- **foster and maintain** a healthy, safe and respectful working environment, where all staff understand their role in treating each other with mutual respect to create this environment;
- **make sure that everyone understands** that workplace violence will not be tolerated and is considered a serious offence for which action will be taken;
- **encourage** anyone dealing with workplace violence to get any assistance they may require in order to make a report;
- **provide a procedure** to deal with incidents of workplace violence; and
- **provide information** about the actions that make be taken when a report of workplace violence has been made.

3. Application of Policy

People: This policy applies to:

- all staff of [EMPLOYER];
- all [contractors / board members / volunteers / trainee / students / janitorial staff / others] who are involved in the work of [EMPLOYER]; and
- all employment and client relationships in the [EMPLOYER] workplace, including [clients/customers/as applicable].

Activities: This policy applies to all aspects of the work environment. This includes hiring, training, promoting, transferring, providing compensation and reviewing performance.

Workplace: In this policy, “workplace” is defined in section 4 Definitions.

4. Definitions

“Concerned person” means a person who has a reasonable belief that she or he is at risk of injury of workplace violence.

“Respondent” means the person who is responding to the report that is made against them.

“Workplace” covers any place and interactions that are related to work, including:

- any place where the business of [EMPLOYER] is conducted. This includes permanent and

temporary facilities, and all places connected with duty travel, including airplanes, hotels, airports, on the land programming, etc. It also includes email, videoconferencing, teleconferencing and social media;

- any place when social and/or functions related to the business of [EMPLOYER] happen, including home and private accommodations, where applicable;
- activities that are incidental or connected to the work of [EMPLOYER];
- incidents that happen after the official business of a meeting but are incidental or connected to the meeting; and
- conduct outside of the workplace which is likely to negatively impact the business of [EMPLOYER], including public spaces and social media.

“Workplace violence” means the conduct of a person that causes, or is likely to cause, injury. This means attempted, threatened or actual conduct, such as a threatening statement or behavior that gives a worker reasonable belief that they are at risk of injury.

EXAMPLES OF VIOLENCE IN THE WORKPLACE

- verbally threatening to attack an employee
- leaving threatening notes at or sending threatening emails to a workplace
- shaking a fist in an employee's face
- wielding a weapon at work
- hitting or trying to hit a colleague
- throwing an object at a colleague
- sexual violence against a colleague
- kicking an object that the worker is standing on, such as a ladder trying to run down a worker using a vehicle or equipment

5. Confidentiality

Confidentiality must be maintained throughout the process for handling a report of workplace violence. Information relating to this process, including identity of any person, may only be disclosed as required by law including if necessary for an investigation or prosecution.

6. Retaliation, Reprisals, and Bad Faith Report

Any staff [customer/contractor/etc.] of [EMPLOYER] has the right to make a report of workplace violence or exercise their rights under this policy without threats of reprisals or retaliations. Threats, reprisals or retaliations in relation to this policy are prohibited.

Any person who retaliates against a person reporting workplace violence may have action taken against them, including disciplinary action.

Any staff [customer/contractor/etc.] of [EMPLOYER] who makes a malicious or bad faith report is in violation of this policy. A malicious or bad faith report means that a person has made a report under this policy that the person knew was untrue. Submitting a report in good faith, even where the report cannot be proven, is not a violation of the policy.

7. Roles & Responsibilities

[EMPLOYER] is responsible for providing all staff, [customers/contractors/etc.] with a safe workplace.

All staff of [EMPLOYER] are expected to contribute towards a safe, healthy and respectful workplace by:

- taking care to maintain a workplace where all persons are respected and safe, including through respectful conduct and speech;
- not engaging in violence in the workplace;
- reporting immediately any situation of workplace violence that they witness, and cooperating in any investigation of a report of workplace violence; and
- following this policy and procedures.

All [Managers/Supervisors/etc.] have a duty to act immediately if they observe workplace violence or receive a report about workplace violence. They are responsible for creating a safe work environment.

[Applicable internal resource] is responsible for:

- the administration of this policy and procedures;
- providing information about the policy and its procedures to any person who is concerned about possible workplace violence;
- the identification of:
 - locations of the workplace where violence has occurred or may reasonably be expected to occur
 - staff positions in the workplace that were or may reasonably be expected to be exposed to violence
 - individuals with a history of violent behaviour that workers are likely to encounter during the course of their work, unless the disclosure is prohibited by law

- reviewing this policy and procedures as required;
- making necessary adjustments to ensure that the workplace violence policy meets the statutory requirements and the needs of the workplace;
- fostering a violence-free work environment and setting an example for appropriate workplace behavior; and
- in the case of a report filed against [applicable position], accepting the outcomes of an external investigation, including findings and resolutions recommendations, by a neutral investigator.

[Applicable external resource] is available to [EMPLOYER] as a neutral [person/company, etc.] to:

- providing information about the policy and its procedures to any person who is concerned about possible workplace violence;
- ensuring the procedures are applied in a timely, consistent and confidential manner as required by law;
- conducting an investigation about a report of workplace violence; and
- if workplace violence has been found, recommend corrective action where appropriate.

[Include additional roles & responsibilities as necessary]

8. Workplace Violence Procedures

8.1 What to do when Confronted with Workplace Violence

A worker should not remain in a conversation or situation in which workplace violence is occurring, or in which a worker reasonably believes workplace violence is about to occur.

When workers are involved in, or are witnesses to, an incident of workplace violence, their safety should be considered when addressing the workplace violence.

If a worker is concerned about or involved in a situation of workplace violence, they should immediately

- leave the situation, where possible, along with other persons who may be in danger;
- contact [security contact info];
- call the RCMP if the circumstance requires it, including where there is physical violence, or a threat of physical violence and the situation is active; and
- report the matter to [applicable internal resource] as soon as possible. If the report of workplace violence is against [applicable internal resource], then the worker should approach [applicable external resource], who will follow a similar process, except where noted

Workers who have been exposed to violence are encouraged to go to the health centre after the incident, for treatment and/or for a referral to counselling [through the Employee Assistance Plan/etc.]. If a worker receives treatment or counselling after an incident of workplace violence, [EMPLOYER] will ensure that the time spent receiving treatment or counselling is credited to the worker as time at work, and that the worker does not lose pay or benefits for the time taken for treatment and/or counselling with respect to an incident of workplace violence.

Once a person has approached [applicable internal resource] about an incident of workplace violence, [applicable internal resource] will provide the concerned person with access to this policy and procedure, as well as information about:

- the availability of counselling and other support services offered by [EMPLOYER];
- any options regarding representation by legal counsel or other person of choice;
- the right to withdraw from any further action in connection to the investigation at any time; and that if they do withdraw, the process might still continue; and
- any other options available to the concerned person including the Nunavut Human Rights Tribunal.

8.2 Domestic Violence

If [EMPLOYER] becomes aware of domestic violence that could occur in the workplace and would likely expose a worker to physical injury, [EMPLOYER] will take every reasonable in the circumstances to protect the worker, including contacting security personnel for the workplace location.

If a worker believes that there is a personal risk of domestic violence while at the workplace, they should inform [Manager/supervisor/security etc.] as soon as reasonably possible.

8.3 Right to Refuse to Work

A worker may refuse to do any work where the worker has reason to believe:

- there exists an unusual danger to the worker's health or safety; or
- carrying out the work is likely to cause to exist an unusual danger to the health and safety of the worker or any other person.

Unusual danger means a danger that does not normally exist in that work or a situation of danger under which a person would not normally carry out the work.

In such cases, the worker should report the circumstances of the refusal to [applicable internal resource] who shall without delay ensure an investigation is done and take steps to eliminate the unusual danger.

After the investigation is completed and any additional steps to eliminate the unusual danger are taken, if the worker has reasonable grounds to believe that unusual danger to the health and safety of the worker still exists, the worker may refuse to work and the Joint Occupational Health and Safety Committee [or a delegate of the Chief Safety Officer (if there is no Committee)] will be notified to investigate and make a decision. The [the Joint Occupational Health and Safety Committee/delegate of the Chief Safety Officer] will investigate the situation within 24 hours of receiving the notification to decide whether an unusual danger exists or is likely to exist.

While waiting for the investigation and decision, the worker must remain, during normal working hours, in a safe place at or near the place being investigated, unless [EMPLOYER] assigns the worker to temporary alternative work that the worker has the skills to perform.

A worker shall be paid at his or her regular rate of pay during the normal working hours the worker spends at the place of the investigation or in the performance of alternative work.

8.4 Investigation of Workplace Violence

At any time after a report of workplace violence has been made, the concerned person may make a request for temporary work accommodation until the process comes to an end. Every effort will be made to reasonably accommodate the concerned person.

If [applicable internal resource] receives a report of an incident of workplace violence, [applicable internal resource] will follow the procedure outlined in this policy to document and investigate the incident.

The concerned person may withdraw from any further action in connect to the report at any time. However, even if they do withdraw, the process investigating the issue might still continue, as [EMPLOYER] has an obligation to ensure a healthy and safe workplace.

Any investigation process under this policy follows accepted principles of fairness, including the following:

- impartiality;
- the right to know the allegation, usually in the form of a summary, so the respondent can make full answer/defence;
- the right to offer evidence and witnesses to support the investigation; and
- the right to counter evidence.

[Outline any additional steps for the investigation, in compliance with the *Safety Act*, RSNWT (Nu) 1988, C s-1]

After the investigation, a decision will be made about whether the policy has been violated, and what action should be taken as a result of the findings, including how to prevent further risk of violence and notify workers of potential risks of workplace violence.

The results of the investigation will be communicated to the concerned person and the respondent by [outline details, including what information will be shared and how confidentiality will be maintained].

If the report is not affirmed, documentation under this policy will not be placed in any personnel file.

If the report is affirmed, a confidential summary of the outcome of the proceeding will be placed in the respondent's personnel file.

All other documentation under this policy will be kept in a locked filing cabinet and/or in an electronic database that is password protected at [EMPLOYER].

9. Assessing Risks of Workplace Violence

[EMPLOYER] will inform workers of risks of workplace violence, including the nature and extent of the risk by:

[Outline procedure for informing workers of risk of violence. This should include procedures for sharing information in the employer's possession about the risk of violence from individuals who have a history of violent behavior and whom workers are likely to encounter in the course of their work, unless that disclosure is prohibited by law]

WORKPLACE LOCATIONS: The following workplace locations have been identified as places where violence could reasonably be expected to occur, or has occurred:

[Insert workplace locations and nature and extent of the risk, or refer to the risk assessment document containing this information]

STAFF POSITIONS: The following staff positions have been identified as positions at the workplace that could reasonably be expected to be exposed to violence or have been exposed to violence:

[Insert staff positions, and nature and extent of the risk, or refer to the risk assessment document containing this information]

The following measures [are in place/should be followed] to eliminate or reduce the risk of violence:

[Outline any safety measures in place to prevent workplace violence, including the use of personal protective equipment, administrative arrangements, and engineering controls (physical controls or barriers that isolate or remove an infectious disease hazard); or refer to existing policies or external risk assessment documents]

10. Where this Policy can be Found

A copy of this policy is available at [website link if applicable] and will be posted at [indicate location/lunch room bulletin board, etc.]

Questions about this policy and procedures can be made to [applicable internal resource].

11. Revision of Policy

This policy will be reviewed and revised (if needed) at least once every three years, or whenever there is a change in circumstances that could affect the health or safety of workers.

