



PORT OF SAINT JOHN EMPLOYERS ASSOCIATION

RESPECTFUL WORKPLACE AND ANTI-HARASSMENT / VIOLENCE POLICY

COMMITMENT

As an employer, the Port of Saint John Employers Association (PSJEA) is legally bound to provide a safe and healthy workplace that is free of discrimination and harassment. Harassment is a form of discrimination and is prohibited by law. Harassment, as defined by the Human Rights Act, means being subjected to unwelcome verbal, visual, or physical conduct that is related to the 11 grounds of discrimination prohibited by law; these are sex, age, race, national or ethnic origin, colour, religion, disability, marital status, family status, sexual orientation, or conviction for which a pardon was granted.

Achieving a respectful workplace free of harassment requires the active involvement of all employees. All employees have a duty to treat each other with respect and avoid harassing behaviours, and every leader has a duty to enforce this policy and respond appropriately to harassment and disrespectful conduct.

The objective of this policy is to provide guidance on the kinds of behaviour that constitutes harassment, and to identify a process available to employees and leaders to assist with addressing harassment and disrespectful conduct.

POLICY

The following describes the PSJEA's (the 'Company') policy on harassment as it pertains to all employees, regardless of classification, management or non-management, as well as all non-employees at the workplace.

Every employee is entitled to employment free of harassment; therefore, the Company will make every reasonable effort to ensure that no employee is subjected to harassment. The Company recognizes and supports the policy guidelines on harassment as established by the Canadian Human Rights Act.

Personal Harassment – any behaviour that demeans, embarrasses, humiliates, intimidates, annoys, alarms, excludes, isolates or verbally abuses a person and that is known or would be expected to be unwelcome.

Bullying is a type of personal harassment. Bullying is usually seen as acts or verbal comments that could 'mentally' hurt or isolate a person in the workplace. Bullying can involve unwelcome physical contact as well. Bullying usually involves repeated incidents or a pattern of behaviour that is intended to intimidate, offend, degrade or humiliate a particular person or group of people.



Sexual Harassment – includes any conduct, comment, gesture or contact of a sexual nature that is likely to cause offense or humiliation and that is known or ought reasonably to be known to be unwelcome. Sexual harassment can be unwelcome sexual advances, requests for sexual favours or other unwelcome verbal or physical conduct of a sexual nature that detrimentally affects the work environment. It may include the expression of sexist attitudes or language.

Workplace Violence – is any act in which a person is abused, threatened, intimidated or assaulted in his or her employment. Workplace violence includes:

- Threatening behaviour - such as shaking fists, destroying property or throwing objects.
- Verbal or written threats - any expression of intent to inflict harm.
- Verbal abuse - swearing, insults or condescending language.
- Physical attacks - hitting, shoving, pushing or kicking.

Rumours, swearing, verbal abuse, pranks, arguments, property damage, vandalism, sabotage, pushing, theft, physical assaults, psychological trauma, anger-related incidents, rape, arson and murder are all examples of workplace violence.

HARASSMENT MAY INCLUDE:

- Speaking in a way that is abusive or threatening
- Displaying pornographic, racist, or other offending or derogatory pictures
- Remarking inappropriately about a person's body, dress, age, religion or other personal characteristics through jokes, innuendo, taunts, leering, or unwelcome gestures
- Displaying condescension or paternalism that undermines someone else's self respect
- Making unnecessary physical contact including touching, patting, or pinching
- Inappropriate use of authority
- Assaulting another person physically
- Undermining or deliberately impeding a person's work
- Tampering with a person's personal belongings or work equipment
- Internet Harassment / Cyber Bullying



Note: engaging in any of the actions, conduct and comments outlined above against a person because of that person's:

- race
- national or ethnic origin
- color
- religion
- age
- sex
- marital status
- family status
- genetic characteristics
- disability
- sexual orientation
- gender identity or expression

Is a direct violation of the *Canadian Human Rights Act*.

NON-HARASSING BEHAVIOUR MAY INCLUDE:

- Respectful disagreements
- Constructive criticism
- Appropriate coaching, counseling or discipline by management
- Fair and consistent management of employees

RISK FACTORS

Employees may be more vulnerable to harassment and violence at work due to a variety of work-related conditions, interactions, and processes. The following broad categories can be used to group these factors: characteristics of the workforce, workplace activity and culture, the physical environment, work-related issues, and other external factors.

- Individuals being angry and frustrated with the system such as dispatch, collective agreement, training, overall rules, regulations, or company procedures.
- Individuals with a history of violence and/or abuse
- Being under the influence of drugs or alcohol
- Discriminatory attitudes and behaviors
- Working alone
- Working during periods of intense organizational changes (strikes, collective bargaining, restructuring)
- Tight deadlines, time obligations leading to high stress
- Working in an environment with high noise levels
- Verbally abusing co-workers or management
- Lack of control over how work is done
- External factors: family or domestic violence



ROLES AND RESPONSIBILITIES

The Company will approach each inquiry with the ultimate goal of maintaining a respectful workplace free of harassment. In some cases this will require a formal investigation. In other cases, the issue may be successfully resolved without a formal investigation, and where the employee agrees, the Company will work with all affected parties to ensure that a respectful workplace is restored and/or maintained, through education, coaching, conciliation and other means. The appropriate level of management to address any concerns will be engaged in the process and will ultimately be responsible to deal with the outcome of any formal complaint.

Employees Responsibility – All employees have the responsibility to treat each other with respect, and to speak up if they or someone else is being harassed. All employees have a responsibility to report harassment to the appropriate person. All employees are responsible for respecting the confidentiality of anyone involved in a harassment complaint. Any employee who believes they have been subjected to harassment, as outlined in this policy should:

- **Speak up** - If you believe you are being harassed, speak up right away. If possible, tell the person that you are not comfortable with their behaviour, and want it to stop. Usually, that will be all you need to do. You can speak to them directly or write them a letter (date it and keep a copy). In addition, tell someone you trust what is going on.
- **Keep notes** – Record all unwelcome or harassing behaviour. Write down what has happened, when, where, how often, who else was present, and how you felt about it. Write down every instance of harassment.
- **Report it** – If the harassment continues, the employee is to inform their Supervisor/Foreman of the allegation and the facts surrounding the incidents of the harassment. If for some reason you are unable to report the harassment to your Supervisor/Foreman, talk to your union representative, or the police (for a case of sexual or physical assault). Once the person reports the harassment, the designated anti-harassment person will ask questions such as what happened, when, where, how often and who else was present and will keep notes of this conversation.
- **Seek Support** – Employees may also seek assistance through the Company's Employee & Family Assistance Program (EFAP). Available 24 hours a day, 7 days a week at **1-800-663-1142**, International (call collect) **1-604-689-1717** or www.homewoodhealth.com.

Management Responsibility – Each manager and supervisor is responsible for fostering a safe working environment, free of harassment and violence. Managers must set an example for appropriate workplace



behaviour and must deal with situations of harassment immediately upon becoming aware of them, whether or not there has been a complaint. Any manager receiving a complaint should contact the PSJEA designated recipient for assistance in handling any harassment complaint. Further, management is responsible for:

- ensuring that the *Respectful Workplace and Anti-Harassment/Violence Policy* is applied in a timely, consistent and confidential manner;
- determining whether allegations of harassment are substantiated; and
- determining what corrective action is appropriate where a harassment complaint has been substantiated.
- Communicating the process for investigating and resolving harassment complaints made by employees;
- Dealing with harassment situations immediately upon becoming aware of them, whether or not a harassment complaint has been made;
- Taking appropriate action during a harassment investigation, including separating the parties to the harassment complaint, when appropriate
- Ensuring harassment situations are dealt with in a sensitive and confidential manner.
- Prepare clear and concise documentation of the situation
- Deciding on appropriate course of disciplinary actions, if necessary
- Recommending appropriate policy and procedure changes

Designated recipient (the Harassment and Violence Prevention (HVP) Unit) responsibilities -

Under this policy, the Harassment and Violence Prevention (HVP) Unit will act as the designated recipient.

[Jen Brun and Jennifer Gots]

- Receive the notice of occurrence (complaint) – 7 days to complete initial contact.
- Complete the initial review process:
 - Reviewing the notice of occurrence to make sure it is complete and that it contains the name or identity of the principal party and the responding party (if known), the date of the occurrence and a detailed description of the occurrence.
 - Determining if a party or witness requires support or services.
 - Determining what, if any, steps should be taken immediately to reduce or diffuse the situation from becoming worse (e.g., move one party from the area, suggest always being with another person if interaction between parties must occur, provide security, etc.)



- Informing the parties of their roles and rights, including legislation, collective agreements, human rights, and other options.
- Interview the principle and responding parties and examine all pertinent information and facts
- Interview all witness(es) or persons who may have knowledge of the circumstances
- Direct and lead the resolution process
- Complete workplace assessments
- the administration of this policy
- reviewing this policy annually, or as required; and
- making necessary adjustments to ensure that this policy meets the needs of the organization.
- Communicating the process for investigating and resolving harassment complaints made by employees.

COMPLAINT PROCEDURE

The Company will approach each inquiry with the ultimate goal of maintaining a respectful workplace free of harassment. In some cases this will require a formal investigation. In other cases, the issue may be successfully resolved without a formal investigation, and where the employee agrees, the Company will work with all affected parties to ensure that a respectful workplace is restored and/or maintained, through education, coaching, conciliation and other means. The appropriate level of management to address any concerns will be engaged in the process and will ultimately be responsible to deal with the outcome of any formal complaint.

STEPS

1. Make known to the harasser that their conduct, actions, verbiage is unwelcome and making you feel uncomfortable, IF possible.
2. Take your complaint to the designated recipient at the PSJEA and/or to your direct manager if possible. Submissions accepted:
 - a. Verbally
 - b. Written
 - c. Anonymously – this can only be completed by a **witness**.
3. Complete the *Notice of Occurrence of Harassment and Violence Form*.
IF being completed anonymously by a witness, at minimum the designated recipient needs the following to move forward with an initial review of a complaint:
 - a. Name of principle party and responding party, if known
 - b. Date of occurrence
 - c. Detailed description of the incident



4. Initial review must be completed within 7 days of notification once **all** information has been received. A Member of the HVP unit will contact the principal party, the union representative and/or witness to let them know the notice of occurrence has been received.
5. Following the initial review – one or a combination of the three resolution processes will occur (Negotiated Resolution, Conciliation, Investigation).
6. Following the resolution process, the Company will administer the appropriate next steps, which may result in disciplinary action.

RESOLUTION PROCESS

Following the initial review, the Company or designated recipient, the principal party and the responding party must make every reasonable effort to find a solution. These efforts must begin no later than 45 days after the notice is provided.

1. **Negotiated Resolution** – Negotiated resolution is a form of informal resolution where the principal party meets with the designated recipient to: discuss the occurrence, clarify what was submitted in the notice of occurrence, and attempt to reach resolution.
2. **Conciliation** – Informal process where both principal and responding parties agree to attempt to resolve the dispute through mediation with a neutral party facilitating. The conciliator may or may not be another member of the organization, as long as both parties agree upon the individual.
3. **Investigation** – When no resolution is found through negotiated resolution or conciliation and when requested to do so by the principal party, an investigation must occur. Notice will then be provided to both the principal and responding party that an investigation is going to ensue, Jen Brun will complete the investigation, in lieu of her absence Jennifer Gots will complete the investigation. Once completed a report will be presented to the Company, designated recipient and management that provides a general outline of the occurrence, conclusion and recommendations to eliminate and prevent similar incidents occurring in the future.

Please note: the principal party may stop the resolution process at any time. They must inform the Company or designated recipient that they are choosing not to continue with the process.

REPRESENTATION

At any time during the resolution process, an employee may be accompanied or represented by a:

- union representative
- friend
- partner
- colleague, or
- person of their choosing



SUBSTANTIATED COMPLAINTS

When the allegation of harassment is substantiated, the following actions will be taken:

- Advise the harasser the behaviour is not tolerated and direct the harasser to stop the harassment without any repercussions to the victim;
- Discuss the seriousness and the effects of the offense with the harasser.
- Administer the appropriate next steps, which may result in disciplinary action.

DISCIPLINARY ACTION

Corrective action for harassers will include any of the following, depending on the nature and severity of the harassment:

- a written reprimand;
- a suspension, without pay;
- a transfer, if it is not reasonable for the people involved to continue working together; or
- a dismissal.
- Criminal charges could be laid in combination with the above-listed actions.

EMERGENCY PROCEDURES

If a harassment and violence occurrence pose an immediate danger to the health and safety of an employee, or if there is a threat of such an occurrence, please call 911 for emergency services (police, fire and ambulance) and then please contact your employers safety representative then a member of the HVP unit [Jen Brun and/or Jennifer Gots]. Employees can also contact the Employee Assistance Program (EAP) at **1-800-663-1142**.

Immediate Threat

- Call 911
- Be as specific as possible, including location of the threat, how many persons are involved and the identity of the person(s) involved
- Provide guidance to the emergency responders as to the best way to approach the emergency location
- Get out of the area and away from the immediate threat (if possible).
- If leaving would expose you to harm, “barricade-in-place” by closing and barricading work area (office, storeroom, control room, shop area, etc.) doors and seek cover within your immediate area. Stay in place until the “all clear” signal is given or as instructed by emergency responders.
- Notify as many other people as possible of the threat without further exposing yourself



Violence committed in the workplace

If you **witness** or **experience** violence at work:

- Stay calm
- remove yourself from the situation (if you can)
- avoid saying or doing anything that could aggravate the situation further
- inform your manager or seek help from a co-worker immediately
- if your manager is the perpetrator, notify another manager in the line of authority
- if your physical security or well-being is threatened, call 911

If you are dealing with a **violent person**:

- stay calm
- try to calm the other person or diffuse the situation (if you can)
- avoid saying or doing anything that could aggravate the situation
- respect the person's personal space
- continue the conversation with the person only if the person calms down
- tell the person that you understand the reason for their anger
- if the behavior persists, end the conversation
- politely notify ask them to leave your work area
- notify your manager
- if the person refuses to leave the premises and the situation escalates call 911

Intimidating Situation

- stay calm
- let the individual know that their actions are unwanted
- inform your manager or seek help from a co-worker immediately
- if the situation persists call 911

Non-emergency Procedures

If you are not in immediate physical danger, but you have information or concerns regarding workplace violence and/or harassment, contact your manager and the designated recipient.

TRAINING

During the orientation process all employees will be required to examine the *Respectful Workplace and Anti-Harassment/Violence Policy* and sign that they acknowledge and fully understand the policy and procedures. At this time any questions or concerns regarding the policy will be answered. Contact information will be provided to the employees subsequently if additional questions arise regarding the policy so they can contact the appropriate individual.



The following groups will receive training on their obligations in relation to harassment and violence by a reputable 3rd party organization at least once every 3 years:

- Managers
- Supervisors
- Health and safety representatives

CONFIDENTIALITY

The Company will not disclose any information about a complaint except as necessary to investigate the complaint or to take disciplinary action, or as required by law.

PROTECTION AGAINST REPRISAL

Parties involved in an occurrence are prohibited from seeking retaliation. If you experience any retaliatory action or threat of retaliatory action from the responding party, witnesses, management or any other people within or outside of the organization, please inform Jen Brun immediately.

FALSE ACCUSATIONS

To falsely accuse someone of harassment is a serious offense. When the allegation of harassment is not substantiated and is determined to be a false claim, disciplinary action deemed appropriate will be taken against the individual claiming the false allegations.

UNION GRIEVANCES

Union grievance procedures may be available in certain cases of harassment. Please speak to your union representative for more information about filing a grievance.

ADDITIONAL PROCEDURES

If an employee is not satisfied with the result of the harassment complaint, they can consult the Canadian Human Rights Commission. If the harassment involves physical or sexual assault, which are criminal offences, contact the Police.

REVIEW

In the event there have been changes to the policy, procedures, or legislation the revision will be distributed to the portwide safety committee for a policy review. It will be up to those safety representatives to relay the new information to all employees and the PSJEA will be responsible for tracking the confirmation that the information was received. Upon the request of the Portwide Safety Committee a designated recipient will attend the Portwide Safety meeting to address any questions or concerns about the new information. This policy will be reviewed at minimum every three years.




DEFINITIONS


The following definitions apply to this policy:

- **Designated recipient** - the work unit that has been designated by the PSJEA, to whom a notice of an occurrence may be submitted. For the purposes of this Policy, the HVP Unit will act as the designated recipient
- **Occurrence** - an occurrence of harassment and violence in the workplace
- **Principal party** - an employee or employer who is the object of an occurrence
- **Responding party** - the person who is alleged to have been responsible for the occurrence in a notice of an occurrence provided to the designated recipient
- **Witness** - a person who witnessed an occurrence of harassment and violence or is informed of an occurrence by the principal party or responding party
- **HPV Unit** – The Harassment and Violence Prevention Unit
- **Workplace** - any place where an employee is engaged in work for the employee's employer as per 122(1) of the Code

INQUIRIES

For further information regarding this policy, please contact the PSJEA office at 646-0399 or 646-1886.

Signed:  (Jen Brun, Vice President) Date: October 26, 2023

Signed:  (Jen Gots, H&S Representative) Date: October 26, 2023