

Workplace Harassment and Violence Policy (Federal Bill C-65 Version)



1. MISSION STATEMENT

The management of ABC Company recognizes the sad reality that the society we live in carries the risk of workplace harassment and harassment and has made it a mission to prevent it from happening here. **Simply stated, ABC Company will not tolerate harassment and violence in the workplace in any form regardless of who commits it.**

2. PURPOSE

This Policy outlines the measures ABC Company has taken and will continue to take to prevent and protect employees against workplace harassment and violence in accordance with the requirements of Part II of the *Canada Labour Code* (Act), the *Canadian Occupational Health and Safety Regulations* (Regulations), the ABC Company Occupational Health and Safety Program (OHS Program), and other applicable requirements and standards.

3. WHAT WORKPLACE HARASSMENT AND VIOLENCE MEANS

• 01 Harassment and Violence

For purposes of this Policy, “harassment and violence” means any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee. Such action, conduct or comments may come from superiors, co-workers, customers, clients, members of the public and other third persons an employee is reasonably likely to encounter in the course of his/her work for ABC Company. Examples (this list is not meant to be exhaustive):

- Physical attacks like hitting, shoving, pushing, kicking, biting, pinching, or inciting an
- animal to attack.
- Brandishing a weaponing, shaking fists in front of, or pushing a worker;
- Any expression of intent, written or verbal, to inflict physical force that could cause

- physical injury;
- Body language or behaviors that leave little doubt in the mind of the worker that the perpetrator intends to cause physical injury;
- Harsh and excessive criticism of a personal and non-constructive nature;
- Spreading rumours designed to harm a person's reputation or put the person in a negative light;
- Spying or stalking, including online;
- Ridiculing a person on the basis of physical appearance, beliefs or personal characteristics;
- Name calling and teasing;
- Unwelcome practical jokes; and
- Slurs, offensive remarks or other treatment that would constitute discrimination on the basis of race, ethnicity, national origin, religion, age, gender, family status, disability, sexual orientation, political belief, criminal record or other grounds protected by the Canadian Human Rights Act (Human Rights Act).
- **Workplace**

As used in this Policy, the term "workplace" refers not just to ABC Company buildings and physical facilities but to any location where the employee does or can be reasonably expected to carry out work

for ABC Company, including but not limited to:

- Within ABC Company facilities, premises and work sites;
- Inside ABC Company vehicles; and
- At off-site locations where workers are required to perform their duties, including but not limited to client offices, sites of business conferences, and ABC Company-sponsored retreats, affairs, and social events.

4. DEFINITION

For purposes of this Policy:

"Administrative controls" means the provision, use, and scheduling of work activities and resources in the workplace, including planning, organizing, staffing, and coordinating, for the purpose of controlling risk;

"Applicable partner" means the policy committee or, if there is no policy committee, the workplace joint health and safety committee (JHSC) or health and safety representative (HSR);

"Competent" means qualified to do a particular task by virtue of the person's training, education or experience;

"Designated recipient" means a work unit in a workplace or person that ABC Company designates to receive notices of occurrence under Section 10 below;

"Engineering controls" means the physical arrangement, design, or alteration of workstations, equipment, materials, production facilities, or other aspects of the physical work environment, for the purpose of controlling risk;

"Occurrence" means an occurrence of harassment and violence in the workplace;

"Principal party" means an employee or employer who is the object of an occurrence;

"Responding party" means the person who is alleged to have been responsible for the

occurrence in notice of an occurrence;

“Witness” means a person who witnessed an occurrence or is informed of an occurrence by the principal party or responding party;

“Workplace assessment” means a workplace harassment and violence assessment carried out jointly by ABC Company and the applicable partner that consists of: the identification of risk factors under Section 6.1 below; and the development and implementation of preventive measures under Section 6.2 below.

5. ROLES & RESPONSIBILITIES

ABC Company expects all persons in its employ to behave in a professional, respectful manner and carry out their respective roles and responsibilities in implementing this Policy.

• 01 Employer

As “employer” under the Act, ABC Company is responsible for overall implementation of this Policy, including:

- Performing, monitoring, reviewing and updating the workplace assessment jointly with the applicable partner as required by Section 6 below;
 - Developing, implementing, monitoring, reviewing and updating the preventive measures jointly with the applicable partner in accordance with the requirements set out in Section 6.2 below;
 - Developing, implementing, monitoring, reviewing and updating the emergency procedures jointly with the applicable partner as required by Section 9 below;
 - Developing, implementing, providing, monitoring, reviewing and updating the workplace harassment and violence training jointly with the applicable partner as required by Section 8 below;
 - Reviewing investigator reports and determining which of the investigator’s corrective action recommendations to implement jointly with the applicable partner, and implementing each of those items;
 - Designating the designated representative;
 - Carrying out the functions and procedures for occurrence resolution described in Section 10;
 - Maintaining the health and safety records required by Section 11 below.
 - Creating and submitting the Annual Reports required by Section 12 and Fatality Reports required by Section 13; and
 - Implementing and, jointly with the applicable partner, monitoring, reviewing, and updating this Policy in accordance with Section 15 below.
- **Applicable Partner**

The applicable partner is responsible for performing the following functions jointly with competent persons designated by ABC Company:

- Performing, monitoring, reviewing and updating the workplace assessment required by Section 6 below;
- Developing, monitoring, reviewing and updating the preventive measures in accordance with the requirements set out in Section 6.2 below;
- Developing, monitoring, reviewing and updating the emergency procedures required by Section 9 below;
- Developing, monitoring, reviewing and updating the workplace harassment and

- violence training required by Section 8 below;
- Reviewing investigator reports and determining which of the investigator's corrective action recommendations to implement; and
- Monitoring, reviewing and updating this Policy in accordance with Section 15 below.

Where ABC Company and the applicable partner are unable to reach agreement on any of the matters requiring joint action, the decision of ABC Company will prevail.

• **OHS Coordinator**

The ABC Company OHS Coordinator is responsible for establishment and day-to-day implementation of this Policy, including ensuring that:

- All workplace harassment and violence policies are administered and enforced;
- All required training is provided and that all personnel are aware of and effectively practice the policies and procedures set out in this Policy;
- Management is regularly briefed on Policy implementation, occurrences and new OHS and other applicable requirements;
- Information, instructions, and assistance is provided to all supervisory staff;
- All occurrences are properly investigated and resolved;
- All required fatality and annual reports are properly prepared and submitted;
- All required records are properly maintained; and
- The effectiveness of this Policy is monitored.
- **Supervisors**

Supervisors are responsible for:

- Understanding this Policy and its requirements;
- Ensuring that the workers they supervise also understand and comply with this Policy;
- Enforcing and carrying out many of the measures this Policy requires, which may include participation in hazard assessment, delivering training and recordkeeping, among other things.
- **Employees**

Every employee must work in compliance with this Policy and report any occurrences they suffer or witness to ABC Company or the designated representative. In addition, employees should notify their supervisor, manager or ABC Company official if they are threatened with or feel they are at risk of domestic or family violence and that their spouse, partner, family member, friend or other relation is likely to attempt to engage violence against them in the workplace.

6. WORKPLACE ASSESSMENT

ABC Company will appoint a competent person to carry out a workplace assessment jointly with the applicable partner in accordance with the requirements of this Section.

• **01 Risk Factors**

The competent person and applicable partner will identify the risk factors, internal and external, that contribute to harassment and violence in the workplace, taking into account:

- The culture, conditions, activities and organizational structure of the

- workplace;
- Circumstances external to the workplace, such as family violence, that could give rise to harassment and violence in the workplace;
- Any reports, records and data related to harassment and violence in the workplace;
- The physical design of the workplace; and
- The measures in place to protect psychological health and safety in the workplace.
- **Preventive Measures**

Within six months after identifying the risk factors under Section 6.1 above, the competent person and applicable partner will jointly:

- Develop preventive measures that, to the extent feasible, (i) mitigate the risk of harassment and violence in the workplace, and (ii) neither create nor increase the risk of harassment and violence in the workplace;
- Develop an implementation plan for the preventive measures; and
- Implement the preventive measures in accordance with the implementation plan.
- **General Principles for Developing Preventive Measures**

In developing preventive measures, the competent person and applicable partner will follow the hierarchy of controls, including use of:

- Reasonably practicable engineering controls, including but not limited to physical barriers, alarms, panic buttons, surveillance cameras and lighting;
- Administrative controls, including but not limited to safe work procedures for performing job tasks involving risks of harassment and violence, such as handling cash, working alone or in isolation, and dealing with irate customers; and
- Personal protective equipment and communications equipment.
- **Monitoring of Workplace Assessment**

A competent person selected by ABC Company and the applicable partner will jointly monitor the accuracy of the workplace assessment and, when necessary, update it in response to:

- A change to the risk factors identified under Section 6.1 above; and/or
- A change that compromises the effectiveness of one or more preventive measures developed and implemented under Sections 6.2 and 6.3 above.
- **Review of Workplace Assessment**

A competent person selected by ABC Company and the applicable partner will jointly review and, if necessary, update it every 3 years. In addition, ABC Company and the workplace JHSC or HSR must jointly review and, if necessary, update the workplace assessment if notice of an occurrence is provided under Section 10.1 below and either:

- The occurrence is not resolved under Section 10.7 and the principal party ends the resolution process under Section 10.6; or
- The responding party is not ABC Company or an employee.

The above review in response to an occurrence must take the circumstances of the occurrence into account. Notices involving the same or substantially the same occurrence require just one ABC Company-JHSC or HSR review considering all of the circumstances at the same time.

7. EMERGENCY PROCEDURES

ABC Company will appoint a competent person to work jointly with the applicable partner to develop emergency procedures to be implemented when an occurrence poses an immediate danger to an employee or the threat of such an occurrence arises. ABC Company will make the emergency procedures available to all employees and review and, if necessary, update them jointly with the applicable partner after each occasion in which those procedures must be implemented.

8. TRAINING

ABC Company will appoint a competent person to work jointly with the applicable partner to develop or identify the workplace harassment and violence training to be provided to employees, ABC Company management and executive leadership and the designated recipient.

• 01 Training Elements

Employee training must be specific to the culture, conditions and activities of the workplace and include:

- The elements of this workplace harassment and violence prevention Policy;
- A description of the relationship between workplace harassment and violence and illegal discrimination under the Human Rights Act, i.e., discrimination on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered;
- A description of how to recognize, minimize, prevent and respond to workplace harassment and violence.
- **When Training Must Be Provided**

Employees must receive the above training:

- Within 3 months after the day on which their employment begins;
- At least once every 3 years after that; and
- After being assigned to a new role or activity that involves greater risk of workplace harassment and violence; and
- After changes are made to any of the training elements in accordance with Section 8.3 below.

The designated recipient must receive the above training before assuming his/her designated recipient duties and at least once every 3 years after that.

ABC Company management and executive leadership must receive the above training by December 31, 2021, and at least once every 3 years after that.

• Review of Training

A competent person appointed by ABC Company and the applicable partner must jointly review and, if necessary, update the training at least once every 3 years and as necessary in response to any change to a training element.

9. SUPPORT MEASURES

ABC Company will take appropriate steps to provide support to employees who are victimized by workplace harassment and violence and will make available information respecting the medical, psychological or other support services that are available within their geographical area.

10. RESOLUTION PROCESS

To encourage the reporting of occurrences, ABC Company will appoint a person or work unit to serve as the designated recipient to whom principle parties or witnesses may provide notice of occurrence in lieu of providing such notice to ABC Company. Notice of occurrence **must be** provided to the designated recipient if ABC Company is the responding party.

11. NOTICE OF OCCURRENCE

Principle parties and witnesses may provide notice of an occurrence, in writing or orally, to ABC Company, or the designated recipient unless: (a) the responding party is neither ABC Company nor an employee; (b) exposure to harassment and violence is a normal condition of the principal party's work; and (c) ABC Company has measures in place to address that workplace harassment and violence. Witnesses (but not principle parties) may provide a notice of occurrence anonymously. The notice of occurrence must include the following information:

- The name of the principal party and responding party, if known;
- The date of the occurrence; and
- A detailed description of the occurrence.
- **Initial Review of Notice of Occurrence**

ABC Company or the designated recipient must perform an initial review of every occurrence they receive. After initial review, the occurrence will be considered resolved if the notice of occurrence does not list the principal party's name or provide other information making it possible to determine his/her identity.

- **Response to Notice of Occurrence—Contact with Principal Party**

Once a notice of occurrence is provided, the employer or designated recipient who receives it has 7 days to contact the principal party and notify him/her:

- That his/her notice has been received or, in the case where notice was provided by a witness, that he/she has been named or identified as the principal party in a notice of occurrence provided by a witness;
- Of the manner in which the workplace harassment and violence Policy is accessed;
- Of each step in the resolution process; and
- Of their right to be represented during the resolution process.
- **Response to Notice of Occurrence—Contact with Witness**

Once a notice of occurrence is provided by a witness, the employer or designated recipient who receives it has 7 days to contact the witness to notify him/her that the notice has been received, assuming the witness is not anonymous.

- **Response to Notice of Occurrence—Contact with Responding Party**

Once a notice of occurrence is provided, the employer or designated recipient who receives it must during the first occasion it contacts the responding party regarding the occurrence, notify the responding party:

- That he/she has been named or identified as the responding party in a notice of occurrence;
- Of the manner in which the workplace harassment and violence Policy is accessed;
- Of each step in the resolution process; and
- Of their right to be represented during the resolution process.
- **Principal Party's Right to End the Process**

The principal party may end the resolution process at any time by informing ABC Company or the designated recipient that they choose not to continue with the process.

- **Negotiated Resolution**

Starting no later than 45 days after a notice of occurrence is provided, ABC Company or the designated recipient that received it, the principal party and, if contacted under section 10.5 above, the responding party, must make every reasonable effort to resolve the occurrence. For this Section:

- **"Reasonable effort"** includes a review by the principal party and ABC Company or designated recipient to determine whether the notice of occurrence describes an action, conduct or comment that constitutes harassment and violence under the Act and this Policy; and
- **"Resolve the occurrence"** includes, but is not limited to, a joint determination by the principal party and ABC Company or designated recipient that the notice of occurrence does not describe an action, conduct or comment that constitutes harassment and violence as defined in the Act and this Policy.

Exception: A notice of occurrence may not be resolved under this Section if it has been investigated and the investigator has provided their report under Section 10.11 below.

- **Conciliation**

The principal party and responding party may attempt to resolve an occurrence for which notice is provided by conciliation if both sides agree on the third person to facilitate the process. Exception: A notice of occurrence may not be resolved under this Section if it has been investigated and the investigator has provided their report under Section 10.11 below.

- **Principal Party's Right to Investigation**

Where an occurrence is not resolved via negotiation or conciliation, an investigation must be performed if the principal party requests it and ABC Company or the designated recipient must notify the principal party and responding party that an investigation is going to be carried out.

- **Selection of Investigator**

ABC Company or the designated recipient must select the investigator. To be chosen as an investigator, a person: (i) must provide ABC Company or designated recipient, principal party and responding party a written statement indicating that the person is not in a conflict of interest regarding the occurrence; and (ii) must have:

- Training in investigative techniques;

- Knowledge, training and experience that are relevant to harassment and violence in the workplace; and
- Knowledge of the Act, the Human Rights Act and any other legislation that is relevant to harassment and violence in the workplace.

Where ABC Company and the applicable partner have jointly developed or identified a list of persons who may act as an investigator, the investigator must be a person named on that list. Where no such list exists, ABC Company or designated recipient, the principal party and the responding party must agree to the person selected to act as investigator. ABC Company or the designated recipient, the principal party and the responding party may propose a person to serve as investigator by providing the other parties the following information about the proposed investigator:

- Their name;
- If they are an employee of ABC Company, their job title and the name of their immediate supervisor;
- A description of their knowledge, training and experience demonstrating that they meet the requirements listed above; and
- A description of any experience that they have which is relevant to the nature of the occurrence to be investigated.

If the sides fail to reach an agreement within 60 days after the notice of investigation provided by ABC Company or the designated recipient under Section 10.9 above, the investigator must be a person from among those whom the Canadian Centre for Occupational Health and Safety (CCOHS) identifies as having the knowledge, training and experience referred to above.

• **Investigation Report**

ABC Company or the designated recipient must provide the investigator with all information that is relevant to the investigation before the investigation begins. The investigator must perform the investigation and prepare a report that includes:

- A general description of the occurrence;
- Their conclusions, including conclusions on the circumstances in the workplace that contributed to the occurrence; and
- Their recommendations to eliminate or minimize the risk of a similar occurrence.

The investigator's report must not reveal, directly or indirectly, the identity of persons who are involved in an occurrence or the resolution process for an occurrence under the Regulations.

• **Distribution of Investigation Report**

ABC Company must provide a copy of the investigator's report to the principal party, responding party, the JHSC or HSR and, if they were provided with a notice of occurrence, under Section 10.1 above, the designated recipient.

• **Implementation of Investigator's Recommendations**

ABC Company must implement any and all of the recommendations set out in the investigator's report that ABC Company and the JHSC or HSR jointly determine should be implemented.

• **Completion of Resolution Process**

The resolution process for an occurrence will be considered completed when:

- Where the occurrence requires a joint review ABC Company/JHSC or HSR review of the workplace assessment under Section 6.5 above, the review and, if necessary, update of the assessment are carried out;
- The occurrence is resolved after initial review under Section 10.2 above or by negotiation or conciliation; or
- If an investigator has provided a report, ABC Company implements the recommendations jointly agreed to with the JHSC or HSR.
- **Time Limits for Resolution**

ABC Company must ensure that the resolution process is completed within one year after the day on which notice of the occurrence is provided. 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, ABC Company must ensure that the resolution process is completed within whichever of the following comes later: (i) 1 year after the day on which notice of the occurrence is provided; and (ii) 6 months after the day on which the party returns to work.

- **Monthly Status Updates**

For every occurrence for which notice is provided, ABC Company or the designated recipient must provide monthly updates on the status of the resolution process to:

- The principal party, starting 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 ABC Company or the designated recipient about the occurrence and ending on the month in which the resolution process is completed.

12. HEALTH AND SAFETY RECORDS

ABC Company is responsible for keeping the must keep a copy of this Policy and the documents that form part of the workplace assessment. ABC Company must also keep the following health and safety records and retain them for 10 years:

- A copy of the documents that form part of each review and update of the workplace assessment.
- For each instance where ABC Company and the policy committee, JHSC or HSR are unable to agree on a matter that is required by the Regulations and this Policy to be jointly done by them, a record of ABC Company's decision in that matter and the reasons for that decision;
- A record of each notice of occurrence provided under Section 10.1 above and of each action taken in response to the notice;
- For each instance where a time limit set out in Section 10.15 above is not met, a document that sets out the reason for the delay;
- A copy of each report that is prepared by an investigator under Section 10.11 above;
- A copy of each annual report prepared in accordance with Section 12 below; and
- A copy of each fatality report prepared in accordance with Section 13 below.

13. ANNUAL REPORTS

On or before March 1 of each year, ABC Company provide the federal Ministry of Labour

(MOL) an annual report setting out: The Company's name or business name and Income Tax Act business number and the name of a person who can be contacted regarding the report. The Annual Report must also list the following information on occurrences for which notice was provided under Section 10.1 in the preceding calendar year:

- Total number of occurrences;
- Number of occurrences related, respectively, to sexual harassment and violence and non-sexual harassment and violence;
- Number of occurrences that resulted in the death of an employee;
- If known, number of occurrences under each prohibited ground of discrimination set out in Section 3(1) of the 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 principle party and responding party, specifying the total number for each type;
- The number of occurrences resolved by each of the means set out in Section 10.14 above; and
- The average time, expressed in months, that it took to complete the resolution process for an occurrence.

14. FATALITY REPORTS

ABC Company must report any occurrence resulting in an employee's death to the MOL within 24 hours after becoming aware of the employee's death and provide the following information:

- The Company's name or business name;
- The Company's Income Tax Act business number;
- A general description of the occurrence;
- The date and time of the occurrence; and
- The name of a person who can be contacted regarding the report.

15. CONTRACTORS AND SUBCONTRACTORS

ABC Company will ensure that any contractors and subcontractors hired to perform work at any of its workplaces are notified of: the workplace harassment and violence hazards posed to the workers performing the contract work and the terms of this Policy and the controls in place to protect workers from risk of workplace harassment and violence.

16. POLICY REVIEW AND UPDATE

ABC Company and the applicable partner will jointly review and, if necessary, update this Policy at least once every 3 years and after any change to an element of the Policy.