

HALIFAX PORT AUTHORITY

HARASSMENT, VIOLENCE AND DISCRIMINATION IN THE WORKPLACE – POLICY

1. Policy Statement

The Halifax Port Authority (“HPA”) is committed to fostering a work environment free of any type of harassment, violence or discrimination where all employees, contractors, directors and officers are treated with respect and dignity, provided with equal rights and opportunities and are free from discriminatory or violent practices and all forms of harassment.

Reason for Policy

Each of us has a right to work in an environment free from harassment, violence or discrimination. This Policy has been developed to:

- (a) set standards for the conduct of all HPA employees, contractors, directors and officers;
- (b) establish a complaint procedure to be followed by employees, contractors, directors and officers subjected to or accused of discrimination, violence or any form of harassment; and
- (c) define the rights and responsibilities of employees, contractors, directors and officers subjected to or accused of discrimination, violence and any form of harassment in the workplace.

2. Definitions

Abuse of Authority

Abuse of authority is a form of harassment that occurs when an individual improperly uses the power and authority inherent in his/her position to endanger an employee’s job, undermine the performance of that job, threaten the economic livelihood of that employee or in any way interfere with or influence the career of the employee. It includes but is not limited to intimidation, threats, blackmail or coercion.

Complainant

The person who makes a complaint about an unwanted behaviour that could be a form of harassment, violence or discrimination.

Coordinator

At the HPA the Coordinator will be the Senior Vice President who will receive harassment complaints and coordinate the processing of such complaints.

Discrimination

Discrimination includes any direct or any indirect act of differential treatment toward an individual as a member of a group, or toward a group itself, that creates a disadvantage for that individual or group or denies that individual or group an opportunity on a prohibited ground of discrimination. This includes the meaning of discrimination under the *Canadian Human Rights Act* and it includes the following prohibited grounds of discrimination:

- (i) race;
- (ii) national or ethnic origin;
- (iii) colour;
- (iv) religion;
- (v) age;
- (vi) sex (includes pregnancy or childbirth);
- (vii) sexual orientation;
- (viii) marital status;
- (ix) family status;
- (x) physical or mental disability; and
- (xi) criminal conviction for which a pardon has been granted.

Harassment

Harassment is a form of discrimination. It means vexatious comment or conduct that a person knows, or reasonably ought to know, is unwelcome.

Harassment includes any form of inappropriate verbal or physical behaviour including bullying, which is unsolicited and unwelcome and creates an intimidating work environment.

Inappropriate behaviour includes any direct or indirect conduct, comment, suggestion, gesture or communication which:

- is likely to cause offence or humiliation to any employee;
- is unwanted or unwelcome whether the Respondent is aware of this or not; an individual needs only to endure an incident for it to be deemed harassment;
- is abusive and/or persistent in nature;
- need not necessarily be based upon a subordinate/power relationship as it can be founded upon physical, cultural, or ethnic diversity;
- might, on reasonable grounds be perceived, explicitly or implied, by that employee as placing a condition on employment, training or promotional opportunities; or
- has the effect of creating a poisoned or hostile work environment.

Senior Management

Senior Management are the people designated by the President & C.E.O. with respect to each department.

Respondent

The person who has allegedly harassed another person or persons.

Investigation Team

The Investigation Team is a committee of two people who will investigate and review complaints of harassment under this Policy and make recommendations to Management.

Sexual Harassment

Sexual harassment is any incident or series of incidents which may cause offence or humiliation to any employee, contractor, director or officer and includes, but is not limited to, unnecessary physical contact, gestures or comments of a sexual nature, the displaying of pornographic material, or any conduct that might reasonably be perceived as placing a condition of a sexual nature on any aspect of employment. Examples of sexual harassment may include:

- (i) verbal abuse or threats;
- (ii) unwelcome or unsolicited remarks, jokes or innuendoes;
- (iii) displays of pornographic or other offensive or derogatory materials;
- (iv) unwelcome visitations or requests, whether implicit or explicit;

- (v) leering (staring) or suggestive gestures;
- (vi) unnecessary physical contact including touching, patting, pinching or punching;
- (vii) physical or sexual assault; or
- (viii) demands for sexual favours.

Violence

Violence is an act of aggression, verbal or physical assaults, or threats in a workplace which may involve, but are not limited to name calling, threatening, swearing, hitting, biting, scratching, pinching, use of a weapon, sexual harassment or assault and battery.

Workplace

Workplace includes any offsite duties or travel related to employment with the HPA as well as social functions.

3. Prohibition on Discrimination, Violence and Harassment

The HPA strictly prohibits discrimination and all forms of harassment.

Every HPA employee, contractor, director and officer is entitled to a workplace free from discrimination, violence and harassment. The HPA will make reasonable efforts to prevent and avoid discrimination and harassment in the workplace.

HPA employees, contractors, directors and officers are encouraged to report any situation where they have been subjected to discrimination, violence or any form of harassment.

The HPA will investigate any complaints of discrimination, violence or harassment according to the Complaint Procedure established in this policy. Investigations will be carried out in a fair, thorough, objective and confidential manner.

Any HPA officer found guilty of discrimination, violence or any form of harassment will be subject to discipline, up to and including the termination of employment.

Any HPA director found guilty of discrimination, violence or any form of harassment will be subject to the provisions of the HPA *Code of Conduct*, Schedule E to the Letters Patent of the Authority.

In addition to making a complaint under this policy, HPA employees, contractors, directors and officers have the right to file a complaint with the Canadian Human Rights Commission pursuant to the *Canadian Human Rights Act*.

4. Confidentiality

Any individual involved in a complaint pursuant to this policy is expected to maintain confidentiality.

To the greatest extent possible, the HPA will make all reasonable efforts to maintain the Complainant's and Respondent's confidentiality during the Complaint Procedure and any resulting investigation. The HPA will make reasonable efforts, not to disclose the names of the Complainants, witnesses and the Respondent and the circumstances behind the complaint, except for the purposes of investigating the complaint, initiating disciplinary action or where required by law.

With the exception of details as to any disciplinary measures taken, documentation relating to a complaint will not be placed on personnel files of the employees, directors or officers involved. All information regarding an investigation will be kept in a separate location in Human Resources.

5. Retaliation Prohibited

For the purpose of this policy, retaliation against an individual for having invoked this policy on behalf of themselves or another individual, for having participated or cooperated in any investigation under this policy, or for having been associated with the person who was involved in the complaint or has participated in these procedures, will not be tolerated by the HPA. Any employee found to have engaged in retaliation will be subject to discipline up to and including the termination of employment. Any director or officer found to have engaged in retaliation will be subject to the provisions of the HPA *Code of Conduct*, Schedule E to the Letters Patent of the Authority.

6. False Accusations and Bad Faith Complaints

Making a false accusation is a serious offence. If the accusation of harassment is frivolous, malicious or in bad faith, the employee will be subject to discipline, up to and including the termination of employment. Anyone who knowingly provides false information in a harassment investigation or removes or destroys documentary evidence crucial to the investigation also commits a serious offence and will be subject to discipline, up to and including the termination of employment. Any director or officer found to have engaged in retaliation will be subject to the provisions of the HPA *Code of Conduct*, Schedule E to the Letters Patent of the Authority.

7. Complaint Procedure

A. (i) Informal Resolution – Confront the Respondent

Complainants should make known to the Respondent(s), either verbally or in written form, that the verbal or physical behaviour is inappropriate and unwelcome and that it should cease immediately.

If the Complainant(s) feel(s) uncomfortable or unsafe in approaching the Respondent(s) directly, then this step may be skipped.

A. (ii) Informal Resolution – Request Mediation

Complainants may request a mediated conversation with the Respondent. A representative from HPA Human Resources will act as a mediator. There may be situations that warrant that mediation is conducted by a person independent of the HPA. In such situations the Coordinator will appoint an independent mediator.

Where informal resolution has not been possible or successful, employees, directors and officers may proceed to file a formal complaint pursuant to this Policy.

B. File a Formal Complaint

Formal Complaint

The Complaint should be submitted in writing to the HPA Coordinator. The Coordinator and one other person will comprise the Investigation Team and will commence an investigation into the complaint. Both team members must not be involved in the complaint in any capacity, even as a witness.

Investigation

1. The Investigation Team will promptly commence an investigation into the complaint. The Complainant and Respondent will be told of all individuals who will be involved in the investigation and what process the investigation will follow. Confidentiality will be maintained to the extent possible within the HPA given that an effective investigation may require the Investigation Team to interview witnesses and other staff. There may be situations that warrant that an investigation is conducted by individuals independent of the HPA. In such situations the President shall appoint an independent investigator to investigate the complaint.

2. Where a formal complaint in writing has been made, the Investigation Team shall:
 - (a) acknowledge receipt of the complaint as soon as practicable, and in any event not later than five (5) working days following receipt of the complaint;
 - (b) verify that the information which has been provided is complete;
 - (c) inform the Respondent that a formal complaint has been lodged and provide the Respondent with a copy of the complaint; and
 - (d) inform the Complainant and Respondent of their responsibility to treat all information as being protected and confidential.

3. The Investigation Team will be responsible for investigating in a timely manner the facts relating to the complaint and subsequently providing a report on the investigation, the findings of fact and a recommendation to Senior Management.

4. The Investigation Team must take an objective and unbiased position throughout the investigation, to ensure the optimum collection of relevant data on which a fair conclusion can be reached. The Investigation Team must:
 - (i) carefully review the written complaint;
 - (ii) interview separately (normally in the following order):
 - (a) the Complainant;
 - (b) the Respondent(s);
 - (c) all witnesses; and
 - (d) anyone else who could have relevant information;
 - (iii) prepare a written report reviewing the information received and stating a conclusion of whether harassment occurred; and
 - (iv) present a recommendation and report to Senior Management.

5. The Senior Vice President and direct supervisor of the Respondent will decide as to the appropriate remedy/solution. In rendering a decision with respect to an appropriate penalty Management may consider the duration of the incident(s), abuse of authority, prior harassment, prior harassment education and record of any previous infractions, in determining the level of any disciplinary action; and

6. At any stage in the complaint procedure, a Complainant may request the withdrawal of his or her complaint. In certain situations the HPA may have a legal obligation to continue investigating the complaint and proceed with imposing discipline on the Respondent. In such situations the HPA will explain its legal obligation to the Complainant and discuss future actions.

7. File A Complaint under the *Canadian Human Rights Act*

Employees, directors and officers may file a written complaint with the Canadian Human Rights Commission under the *Canadian Human Rights Act*. Employees, directors and officers choosing to file such a complaint should verify any time limit for filing such a complaint.