

	Halifax Port Authority	Human Resources Policies and Procedures	Policy Number HR-373/7
HARASSMENT, VIOLENCE AND DISCRIMINATION IN THE WORKPLACE - POLICY			
Approval Board of Directors	Originating Department Human Resources and Administration	Original Approval HPC – Sept. 30, 1994 – HPC/94-060 HPA – March 5, 1999 – HPA/99-003	Revision Date March 1, 2021 March 2020 Sept. 1, 2011 HPA/2006-023

1. Mission Statement

The Halifax Port Authority (“HPA”) is committed to the prevention of and protection against harassment and violence in the workplace. HPA will always strive to foster a work environment free of any type of harassment, violence, or discrimination where all employees, 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.

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

The HPA is committed to working with its applicable partners to ensure that it acts in strict compliance with its statutory obligations as set forth in the *Canada Labour Code* and its Regulations, specifically, the *Workplace Harassment and Violence Prevention Regulations Reg. SOR 2020-130* (the "*Regulations*").

This Policy applies to all HPA employees at the HPA who are engaged in work, work related activities, or work-related relationships. It applies to employees both on HPA property and outside the HPA property. The Policy applies to all incidents of workplace harassment and violence, including sexual harassment and sexual violence, family violence, third party violence and discrimination.

2. Prohibition of Harassment, Violence or Discrimination

The HPA strictly prohibits harassment, violence and discrimination and will at all times act in accordance with its legal and statutory obligations set forth in the *Canada Labour Code* and the *Canadian Human Rights Act*.

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

HPA employees, are encouraged to report any situation where they have been subjected to, or observed, harassment, violence, or discrimination.

The HPA will investigate any complaints of discrimination, violence, or harassment according to the Resolution Process established in this Policy. Any investigation, if required, will be carried out in a fair, thorough, objective, and confidential manner.

Any HPA employee who is determined to have exhibited harassing, violent or discriminatory, behavior will be subject to discipline, up to and including the termination of employment.

Any HPA director, who is determined to have exhibited harassing, violent or discriminatory behavior 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, have the right to file a complaint under the *Canadian Human Rights Act*.

3. Definitions & Key Terms

Harassment

Harassment is a form of discrimination. It includes vexatious comments 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 Responding Party 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.

Harassment may also include 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.

Discrimination

Discrimination includes any direct or 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 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.

Key Terms

- **Occurrence** means an occurrence of harassment or violence in the work place.
- **Designated Recipient** means a work unit in a work place or person that is designated by an employer under the *Regulations*. For the purpose of this Policy, the HPA's Designated Recipient will be the Director, Human Resources and Labour Relations, or his or her designate.
- **Principal Party** means an employee or employer who is the object of an occurrence. A Principal Party may also be a contractor or other individual who works with the HPA and who is subject to the obligations set forth in this Policy and the *Regulations*.
- **Responding Party** means the person who is alleged to have been responsible for the occurrence.
- **Witness** means a person who witnessed an occurrence or is informed of an occurrence by the Principal Party or Responding Party.
- **Applicable Partner** means, for the purpose of this Policy, the HPA Joint Occupational Health & Safety Committee.
- **Notice of Occurrence** might notionally be referred to as a complaint, and must contain the following information:
 - (a) the name of the principal party and the responding party, if known;
 - (b) the date of the occurrence; and
 - (c) a detailed description of the occurrence.

A Notice must not be provided if the Responding Party is neither the HPA nor an employee of HPA or if the HPA has measures in place to address that work place harassment and violence.

4. Description: Roles and Responsibilities

Everyone at the HPA has important responsibilities when it comes to protecting and preventing harassment and violence in the workplace. The following section describes the roles and responsibilities of each party under this Policy:

- i. **Employer** – The HPA has an integral role in preventing and protecting against incidents of harassment, violence, and discrimination in the workplace. The details of the HPA's obligations are set forth throughout this Policy but will generally include taking all prescribed steps to ensure that all parties act in compliance with their respective obligations under this Policy, the *Regulations*, and any other applicable laws.
- ii. **Designated Recipient** – A Designated Recipient must be selected by the HPA. The Designated Recipient will be provided with training before assuming their prescribed duties and every three years thereafter.
- iii. **Employees** – All HPA employees have an obligation to adhere to the principles set forth in this Policy, the *Regulations*, and all applicable laws.

- iv. **Principal Party** – The Principal Party is an employee or employer who is the subject of an Occurrence. The Principal party will typically be the individual who advances a complaint of harassment, violence or discrimination, and who will file a Notice of Occurrence, or will be the subject of a Notice of Occurrence filed by a witness, or anonymously.
- v. **Responding Party** - The Responding Party is expected to fully participate in HPA's response to any Notice of Occurrence. The Responding Party will be provided with an opportunity to fully respond to any allegations made against them, and will be provided the opportunity to participate in the resolution of any Notice of Occurrence in accordance with this Policy, and in accordance with principles of natural justice.
- vi. **Witness** – A Witness may be an individual who observes, or is advised of an Occurrence. A Witness may, in writing or orally, provide the HPA or the Designated Recipient with a Notice of Occurrence. A Witness may also provide a Notice of Occurrence anonymously.
- vii. **Workplace Joint Occupational Health & Safety Committee** – The HPA Joint Occupational Health & Safety Committee will work collaboratively with the HPA to assist in the identification and mitigation of all areas of risk regarding harassment, violence and discrimination. The HPA Joint Occupational Health & Safety Committee will act as the HPA's Applicable Partner, and will fulfil its obligations under the *Regulations*.
- viii. **Director** means an individual who has been duly appointed to the HPA Board of Directors pursuant to the Letters Patent of the HPA.

5. Identification of Risk Factors Contributing to Workplace Harassment and Violence

The HPA and its employees are required to interact with a number of different organizations and individuals, including the general public. In light of this unique presence within the community, HPA employees may be exposed to various situations that might contribute to an increased harm for risk and violence. The following is a non-exhaustive list of risk factors that may contribute to workplace harassment or violence within the HPA:

Internal Factors

- Workplace conflict amongst HPA employees
- Workplace conflict amongst HPA employees and its Contractors
- HPA employees working alone or in small numbers

External Factors

- HPA employees working with, or amongst, the general public
- HPA employees working outside of regular working hours on or around the Halifax waterfront

The HPA, jointly with members of the Joint Occupational Health & Safety Committee, will monitor the working conditions at the HPA to determine whether additional areas of harm or risk need to be identified. This will include reviewing any occurrence to determine whether the workplace risk assessment factors need to be updated. The HPA, in consultation with the Joint Occupational Health & Safety Committee, will make all reasonable efforts to mitigate against the risk of harassment or violence in the workplace.

In addition to the above, the HPA, jointly with the HPA Joint Occupational Health & Safety Committee will review the workplace risk factors at least once every three years.

6. Training

Training Components

The HPA, jointly with the HPA Joint Occupational Health & Safety Committee, will ensure that all HPA employees receive appropriate training on all aspects of harassment and violence prevention within the workplace, including, but not limited to training on the following items of importance:

- The elements of this Policy;
- The relationship between issue of harassment and violence in the workplace with the responsibilities and obligations as set forth in the *Canadian Human Rights Act*; and
- Education and tools on how to recognize, minimize, prevent and respond to incidents of workplace harassment and violence.

Joint Review and Update

The HPA, in consultation with the HPA Joint Occupational Health & Safety Committee will jointly review, and if required, update the training materials at least once every three years, or as required as a result of any change to the element of training.

Employee Training

The HPA will ensure that new HPA employees receive training within three (3) months of commencing employment with the HPA; and for existing employees, the HPA will ensure training is received before December 31, 2021.

Following an employee's initial training, the HPA will ensure that all employees renew training at least once during every three (3) year period.

Designated Recipient Training

The HPA will ensure that its Designated Recipient is trained on their role and responsibilities under this Policy before assuming their duties under this Policy.

Employer Training

The HPA will ensure that all of its executive and management personnel receive training before December 31, 2021, and following this initial training, at least once every three (3) year period.

7. Notice of Occurrence

The HPA urges its employees to feel comfortable in filing a complaint regarding any alleged conduct that may violate this Policy, including any allegation of harassment, violence, or discrimination. For the purposes of this Policy, an employee complaint provided in the manner set out in this Policy will be considered a Notice of Occurrence.

Designated Recipient

For the purpose of this Policy, the HPA designates that the Director, Human Resources and Labour Relations, or their designate, is the Designated Recipient.

Filing Notice of Occurrence

A Principal Party or Witness may, in writing or orally, file with the HPA or the Designated Recipient a Notice of Occurrence. A Witness may file a Notice of Occurrence anonymously. The information contained in the Notice of Occurrence must include, but may not be limited to the following:

- a) The name of the Principal Party and Responding Party, if known;
- b) The date of the Occurrence; and
- c) A detailed description of the Occurrence.

If the Principal Party or the Responding Party is the HPA, then the Notice of Occurrence must be provided to the Designated Recipient.

The HPA or the Designated Recipient must conduct an initial review of the Notice of Occurrence upon its receipt. If it is determined that the Notice of Occurrence does not contain the name of the Principal Party and does not otherwise reveal their identity, the Occurrence will be deemed to be resolved. The Principal Party may end the resolution process at any time by advising the HPA or the Designated Recipient that they wish to discontinue the process.

8. Actions & Communications upon Receipt of Notice of Occurrence

The HPA will strive to ensure that any and all allegations of harassment or violence are dealt with promptly. To this end, the HPA is committed to adhering to the following time frames when in receipt of a Notice of Occurrence.

Within seven (7) days of a Notice of Occurrence being provided to the HPA (or the Designated Recipient) by the Principal Party, the HPA will:

- Confirm the Notice was received, or alternatively, that an employee has been named as the Principal Party in a Notice provided by a Witness.
- Confirm how the Policy may be accessed.
- Communicate the paths to a resolution of the Notice, including details regarding each step.
- Advise the employee that they may be represented during the resolution process by someone whose function is to provide emotional support to the employee.

Within seven (7) days of a Notice being provided by a Witness (who is not anonymous), the HPA must confirm to the Witness that the Notice has been received.

On the first occasion the HPA contacts the Responding Party regarding the Notice of Occurrence, the HPA will:

- Confirm that that they have been named as a Responding Party in a Notice.
- Confirm how the Policy may be accessed.
- Communicate the paths to a resolution of the Notice, including details regarding each step.
- Advise the employee that he or she may be represented during the resolution process by someone whose function is to provide emotional support to the employee.

9. Resolution: Processes and Options

Option 1: Reasonable Effort Resolution

The HPA (or the Designated Recipient), the Principal Party and the Responding Party (if contacted at this stage), must make every reasonable effort to resolve all allegations or issues of dispute raised in the Notice of Occurrence. This reasonable effort process must begin within 45 days from the Notice being provided.

As part of the reasonable effort resolution process, the HPA and the Principal Party must review the Notice of Occurrence to determine whether the Notice describes an action, conduct or comment that constitutes harassment and/or violence as defined in the Policy. In the event that it is jointly determined that the Notice of Occurrence does not describe an action, conduct or comment that constitutes harassment and/or violence as defined in the Policy, the Notice of Occurrence may be resolved at this stage.

The Principal Party may, even while engaged in the reasonable resolution process, request that an Investigation be commenced under Option 3 below. However, an Investigation cannot be requested once resolution is attained in Option 1. Similarly, the Principal Party cannot continue to

participate in a reasonable effort resolution once the Investigator's Report is provided to the HPA by the Investigator.

Option 2: Conciliation

The Principal Party and Responding Party may resolve the Occurrence through conciliation, provided that both parties agree to this option, as well as on a person to facilitate conciliation. The Principal Party must inform the HPA (or Designated Recipient) that it wishes to enter into conciliation with the Responding Party, and the Responding Party must agree or decline this path to resolution.

The Principal Party may, even while engaged in the conciliation process, request that an Investigation be commenced under Option 3 below. However, an Investigation cannot be requested once resolution is attained through conciliation. Similarly, the Principal Party cannot continue to participate in conciliation once the Investigator's Report is provided to the HPA.

Option 3: Investigation

Provided that an Occurrence has not yet been resolved by Option 1 (Reasonable Effort Resolution) or Option 2 (Conciliation) an Investigation under Option 3 must occur if the Principal Party requests that such an Investigation take place. Following such a request, the HPA must provide the Principal Party and the Responding Party with a Notice of Investigation (“NOI”), informing the two parties that an Investigation under Option 3 is to be conducted. An investigation that has commenced, but has not yet concluded, must be discontinued if a resolution of the Occurrence is achieved via Option 1 or 2.

The HPA (or Designated Recipient) will select an Investigator, qualified under the *Regulations*, to undertake the investigation. The Investigator must provide the HPA, the Principal Party and the Responding Party with a written statement indicating his or her compliance with the requirements of the *Regulations*, setting forth the qualifications of the Investigator and that he or she is free from any conflict of Interest with respect to the Occurrence that is the subject of the Investigation.

Alternatively, the HPA may select an Investigator from a list of Investigators jointly determined with the HPA Joint Occupational Health & Safety Committee. A list of the Investigators jointly determined between the HPA and the HPA Joint Occupational Health & Safety Committee is attached to this Policy at Appendix “A”.

If no joint list is determined, then the HPA, the Principal Party and the Responding Party must agree to the Investigator. In the event the parties are unable to agree to the appointment of the Investigator within sixty (60) days of the NOI being received, an Investigator must be requested from the Canadian Centre for Occupational Health and Safety.

Upon the selection of the Investigator, the HPA must provide the Investigator with all information that is relevant to the Occurrence and the investigation.

Investigator's Report (the "Report")

Upon the conclusion of the investigation, the Investigator will produce a Report to the HPA, in writing, that **must** provide the following:

- a. A general description of the occurrence;
- b. The Investigator's conclusions, including those conclusions relating to the circumstances which contributed to the Occurrence; and
- c. The Investigator's recommendations to eliminate or minimize the risk of a similar occurrence.

Confidentiality

The Report **must not** reveal, directly or indirectly, the identity of persons involved in the Occurrence or its resolution. If the Investigator's Report contains information that may directly or indirectly identify the persons involved in the Occurrence or its resolution, the HPA reserves the right to take all reasonable steps to ensure that the identification of those individuals is kept confidential. Such steps may include, but may not be limited to the following: (a) requesting of the Investigator that he or she issue a revised Report that omits any reference that may directly or indirectly identify individuals involved; (b) limiting the number of individuals on the HPA Joint Occupational Health & Safety Committee that receive the Report; or (c) such other measures as may be required to maintain the confidentiality of those individuals involved, while at the same time acting in compliance with its obligations under the Regulations.

Copies of Report

The HPA must provide a copy of the Report to the Principal Party, Responding Party, and the HPA Joint Occupational Health & Safety Committee. The Designated Recipient must be provided with a copy of the Report if it was the party who received the Notice of Occurrence.

Implementation of Investigator's Recommendations

Recommendations, if any, provided in the Investigation Report must be reviewed by the HPA and the HPA Joint Occupational Health & Safety Committee, who will jointly determine which recommendations to implement. The HPA shall bear the responsibility of implementing any jointly determined recommendations that it deems appropriate and reasonable in the circumstances.

10. Completion of Resolution Process

The Resolution Process implemented in response to a Notice of Occurrence will be completed within one (1) year following receipt of the Notice of Occurrence. In the event that the Principal Party or Responding Party is temporarily absent from the workplace for ninety (90) consecutive

days following the receipt of a Notice of Occurrence, the deadline for completion of the resolution process may be extended by six (6) months.

The HPA will provide a monthly update of the status of the resolution process to both the Principal Party and the Responding Party.

The resolution process for an occurrence will be complete when the following conditions are met:

- a) If a workplace assessment is required, that a review and update of the assessment is performed;
- b) The occurrence is resolved in accordance with this Policy;
- c) An Investigator has provided his or her Report and the HPA implements the Report's recommendations in accordance with this Policy.

11. Emergency Procedure in Response to immediate danger

The HPA will take all reasonable steps to protect its employees from danger and immediate harm. For greater clarity, scenarios that may give rise to danger or immediate harm include, but are not limited to the following:

- the presence of immediate danger or circumstances which may cause physical injury to an employee;
- the presence of weapons;
- physical injury related to violent behaviour;
- The utterance of threats suggesting physical or other injury to another individual; or
- obvious signs of abusive threatening behaviour.

In the event there is a situation which poses immediate danger to the health and safety of an employee, or the threat of such danger, an employee must do the following:

- The employee must immediately remove themselves from the threat of harm and if required, call 911 and communicate all critical information regarding the incident to Police authorities.
- Following an employee's notification of the Police authorities, or in situations where Police involvement is not required, the employee must immediately contact HPA security at 902-426-3629 to advise security of the situation involving immediate danger. An HPA employee or security personnel is available at this number 24-hours per day, 7 days a week.
- Upon the HPA being made aware of the above scenario, the HPA Safety Officer or designate, in consultation with others, may request the participation of other workplace parties to review the details surrounding the situation and determine the appropriate response to resolve the issue. The HPA Security individual, or his or her designate, will ensure that appropriate measures are taken to ensure the confidentiality of individuals involved in any situation to which they are asked to respond.

12. Support Services

The HPA encourages its employees to rely on this Policy to protect and prevent against incidents of harassment, violence, or discrimination in the workplace. In addition to the protections as set forth in this Policy, HPA employees should be aware of the following employer and community resources:

- Employee Assistance Program (EAP) through Aspira ([1.877.234.5327](tel:18772345327))
- Provincial Mental Health Crisis Line ([902.429.8167](tel:9024298167) or [1.888.429.8167](tel:18884298167))
- Nova Scotia Health Mental Health & Addictions (<http://www.mha.nshealth.ca>)
- Halifax Infirmery Emergency Medicine – QEII
1799 Robie Street
4th floor, Halifax Infirmery
Halifax, NS B3K 4N1

13. Confidentiality

Any individual involved in an Occurrence or resolution process in response to an Occurrence is expected to maintain confidentiality regarding the process in which they became involved. To the greatest extent possible, the HPA will make all reasonable efforts to maintain the Principal Party and the , Responding Party’s confidentiality during the resolution process, and any resulting investigation. The HPA will make reasonable efforts, not to disclose the names of the Principal Party, Responding Party or Witnesses the circumstances behind the Occurrence except for the purposes of investigating the Occurrence initiating disciplinary action or where required by law.

With the exception of details as to any disciplinary measures taken, documentation relating to an Occurrence 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 and Administration Department.

14. Retaliation Prohibited

For the purpose of this Policy, retaliation against an individual for having relied on this policy on behalf of themselves or another individual, or having participated or cooperated in any investigation under this policy, or for having been associated with the person who was involved in the occurrence 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.

Appendix “A” List of Investigators for Consideration

Name	Contact Information	Note
<p>Kyle MacIssac Partner, Mathews, Dinsdale & Clark LLP</p>	<p>T: 902.334.0437 C: 902.229.1685 kmacisaac@mathewsdinsdale.com</p>	<p>Employment law, Labour Relations, Construction Labour Relations, Occupational Health and Safety, Human Rights Litigation and Advocacy, Workers’ Compensation</p>
<p>Anne Divine Ashanti Leadership</p>	<p>T: 902.441.3999 ann@ashantileadership.com</p>	<p>Leadership, Professional Development and Social Justice Issue Services. Expertise in Human Rights and People management. Former Director, Human Rights Commission. Performs workplace investigations.</p>
<p>Lynne Poirier. LL.B., Q.Med., C. Arb Poirier ADR</p>	<p>T: 902-832-9966 F: 902-832-0142 Lynne@poirieradr.ca Nova Scotia, New Brunswick, Ontario www.poirieradr.ca</p>	<p>Conflict Resolution, Labour Arbitrator, Mediator and Workplace Investigator.</p>
<p>Gail L. Gatchalian, Q.C. Pink Larkin</p>	<p>T: 902-423-7777 F: 902-423-9588 Suite 201 1463 South Park Street P.O. Box 36036, Halifax Nova Scotia B3J 3S9 ggatchalian@pinklarkin.com</p>	<p>Practices Labour, Employment, Human Rights and Constitutional law, and conducts independent workplace investigations.</p>
<p>Denise Mentis-Smith, Q.C. Harris North Law</p>	<p>T: 902-444-7811 F: 902-444-7745 620 Nine Mile Drive, Suite 202 Bedford, Nova Scotia, B4A 0H4 denise@harrisnorthlaw.ca</p>	<p>Practices Family Law and performs investigations. Has a strong background in human rights and discrimination.</p>