



POLICY

**“Tetewataterihwakwenie'nhst”
(Let us Respect Each Other)**

**RESPECT IN THE WORKPLACE
(Bullying, Discrimination, Harassment, Sexual Harassment and Violence)**

Applicable to: All employees inclusive of members of the Akwesasne Police Association (APA), Public Service Alliance of Canada (PSAC), Management Employee Association (MEA), any other potential union or association, anyone performing services for the MCA and community members.

Distributed to: All employees including members of the Akwesasne Police Association (APA), Public Service Alliance of Canada (PSAC), Management Employee Association (MEA), any other potential union or association, external contractors, consultants, suppliers and community members who are receiving services from the MCA.

Effective Date: April 1, 2014

MCR# : 2013/2014 - #283

Replaces: GPP Article 5.9 & Article 7

**“Enhserihwakweniéhste”
(Respect)**

Respect is a fundamental principle that we as Onkwehonwe live by. Showing consideration, compassion, and treating others courteously and with kindness are values that are inherent in our culture. Being respectful means conducting one’s self with patience and with words and actions being reflected in a peaceful manner, while respecting the inherent rights, choices, speech, beliefs and freedoms of all people.

Purpose

The Mohawk Council of Akwesasne (hereafter referred to as MCA) is committed to providing and maintaining a working environment that is based on respect, dignity, equality, and safety for all MCA employees. It is the MCA’s goal to provide a healthy and safe work environment that is free of bullying, discrimination, harassment and/or workplace violence. The MCA is diligent in meeting established standards of existing external laws that apply to the territory of Akwesasne where the MCA has jurisdiction (i.e. Canadian Human Rights Act, Canada Labor Code, etc.).

Scope

This Policy applies to all employees of the MCA, as well as anyone performing services on behalf of the MCA (with the exception of Council) including, without limitation; independent contractors, consultants, suppliers, students on work placements, summer students, volunteers, clients, community members and any visitors to MCA facilities/properties. The Canada Labour Code continues to apply.

It also applies to all employees who are covered by a collective agreement or management agreement, including but not limited to:

- Akwesasne Police Association (APA);
- Public Service Alliance of Canada (PSAC);
- Management Employee Association (MEA); and
- any other potential union or association.

It also applies in any location in which an employee is engaged in work-related activities. This includes, but is not limited to:

- the workplace;
- during work-related travel;
- during work-related conferences/seminars/workshops;
- at restaurants, hotels or meeting facilities that are being used for business purposes;
- in MCA owned or leased vehicles;
- in privately owned vehicles used for business purposes;
- during telephone, email or other communications; and
- at any work-related social event.

Any incident that occurs **outside the workplace** and has an adverse impact on the working environment, including the working relationship, may be considered a violation of this Policy.

Policy

The MCA is committed to providing a workplace free from bullying, discrimination, harassment, including sexual harassment and/or violence and will not tolerate nor does it condone bullying, discrimination, harassment, and/or workplace violence.

The MCA will take all reasonable and practical measures to prevent and protect all employees from acts of bullying, discrimination, harassment, including sexual harassment and workplace violence. To this end, the MCA Director/Program Manager will conduct the initial risk assessment of its workplace and it will reassess every three (3) years, and after any critical incident.

The MCA is committed to making everyone aware of what behaviour is and is not appropriate, assessing the risk of workplace violence, investigating complaints and imposing suitable corrective measures.

The MCA recognizes that humour in the workplace is often used as a way to alleviate stressful situations or workplace stress. Appropriate humour in the workplace is acceptable in a cordial discussion as long as it is not disrespectful or discriminatory, cause embarrassment or humiliation, is not in any way demeaning nor impedes or offends others.

The MCA promotes responsibility, respect, civility and professional excellence in a safe work environment. Any form of bullying, discrimination, harassment, including sexual harassment and/or workplace violence is prohibited and MCA considers all complaints seriously.

It is our mutual responsibility, as employer and employees, to ensure that we create and maintain a harassment and violence-free workplace and address violence and/or the threat of violence from all possible sources (including community members, clients, suppliers, fellow employees, supervisors, managers, directors, strangers and domestic/intimate partners).

Employees have the right, notwithstanding this Policy, to file a complaint with the Canadian Human Rights Commission regarding any alleged violation of the Canadian Human Rights Act, with Human Resources Skills Development Canada, or with appropriate law enforcement.

This Policy will be reviewed once every three (3) years or following any critical incident.

Definitions

1.0 Discriminatory Harassment

Workplace discrimination includes any distinction, exclusion, or preference based on the protected grounds contained within the Canadian Human Rights Act.

Discriminatory Harassment includes comments or conduct which the recipient does not welcome or that offends him/her based on the protected grounds contained within the Canadian Human Rights Act, which include:

- race;
- age;
- family status;
- ethnic origin;
- sex;
- religion;
- sexual orientation;

- colour;
- record of offences for which a pardon has been granted;
- disability; and
- marital status.

In addition to the above, the MCA also recognizes the following areas as grounds for discriminatory harassment:

- ancestry;
- membership/citizenship;
- place of origin; and
- a person's clan.

Some examples of discriminatory harassment include but are not limited to:

- offensive comments, jokes or behaviour that disparage or ridicule a person's membership on one of the protected grounds, for example, race, religion or sexual orientation;
- imitating a person's accent, speech or mannerisms;
- persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children;
- inappropriate comments or jokes about an individual's age, sexual orientation, sex life, personal appearance or weight;
- inappropriate comments or jokes about an individual's clan or lack thereof;
- use of language to purposely exclude others;
- inappropriate comments about an individual's education or lack thereof; and
- inappropriate comments about an individual's financial status.

Notwithstanding the foregoing, the MCA has a Preferential Hiring Policy, a special program within the meaning of Section 16 of the Canadian Human Rights Act, which gives preference in hiring and promotion decisions in the following manner:

1. Enrolled members of the Mohawks of Akwesasne
2. Other Status and Non-Status First Nation Members
3. Métis and Inuit

2.0 Poisoned Work Environment

A poisoned work environment refers to a workplace in which objectionable/inappropriate comments or behaviours create a hostile or offensive environment for individuals or groups and negatively affects communication and productivity. These activities may not be necessarily directed at anyone in particular.

All employees are expected to act towards other individuals professionally and respectfully and to speak out against unacceptable behaviours in the workplace in a professional and sensitive manner. A pattern of inappropriate/objectionable comments

and conduct, even if not specifically directed at a particular individual, should be reported to the supervisor or to the manager at the next level and prompt action is expected to be taken. Management is expected to intervene promptly when they become aware of improper or offensive conduct even when no complaint has been made.

However, please note that a behaviour not directed at any one identifiable person becomes harassment only when it relates to a prohibited ground of discrimination (such as displaying sexually explicit material or telling racist or religious jokes).¹

Some examples of behaviours that may contribute to a poisoned work environment include:

- yelling at no one in particular;
- pounding one's desk;
- graffiti;
- sexual, racial, or religious jokes;
- the display of pornographic or offensive materials such as posters, pictures, calendars, websites or screen savers; or
- distributing offensive e-mail messages or attachments such as pictures or video files that may embarrass or insult someone.

A poisoned work environment:

- may involve all levels of employees in a workplace;
- can be characterized by negative or dysfunctional interpersonal relations; or
- may or may not include harassing or other kinds of vexatious or annoying behaviours.

Factors that may contribute to a poisoned work environment include:

- dysfunctional behaviour of some members of a team that may have gone unaddressed over time; or
- passive tolerance of inappropriate behaviour.

3.0 Sexual Harassment

Sexual harassment includes conduct or comment of a sexual nature that is likely to offend or humiliate or that might, on reasonable grounds, be perceived as placing a condition of a sexual nature on employment or any opportunity for training or promotion.

It also includes negative or inappropriate conduct or comment that is not necessarily sexual in nature, but which are directed at an individual because of his/her gender or sexual preference.

Both men and women can be victims or perpetrators of sexual harassment.

¹ *Is it Harassment? A Tool to Guide Employees*: Treasury Board of Canada Secretariat, <http://tbs-sct.gc.ca>.

Some examples of sexual harassment include but are not limited to:

- sexual advances or demands that the recipient does not welcome or want;
- threats, punishment or denial of a benefit for refusing a sexual advance;
- offering a benefit in exchange for a sexual favour;
- leering (persistent sexual staring);
- displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic web sites or other electronic material;
- distributing sexually explicit e-mail messages or attachments such as pictures or video files;
- sexually suggestive or obscene comments or gestures;
- unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, clothing or sex;
- persistent, unwanted attention after a consensual relationship ends; or
- physical contact of a sexual nature, such as touching, caressing and sexual assault. It is a crime to assault another person and the appropriate law enforcement will be contacted.

4.0 Bullying (Workplace)

Workplace bullying is a pattern of aggressive behaviour that is intended to offend, insult, hurt, undermine or humiliate another person. Bullying can include verbal comments, gestures, physical bullying, exclusion or coercion and is also considered harassment (see Harassment (Workplace)).

5.0 Harassment (Workplace)

Engaging in a course of inappropriate/objectionable comments or conduct against an employee in a workplace that is known or ought reasonably to be known to be unwelcome.

Workplace harassment is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient's dignity, psychological or physical integrity and has a harmful effect. It includes behaviours that are hostile, abusive or inappropriate that can also result in a poisoned work environment.

Workplace harassment and bullying includes, but is not limited to:

- verbally abusive behaviour such as yelling, insults, ridicule, profanity and name-calling including remarks, jokes or innuendos that demean, ridicule, intimidate or offend;
- behaviour that intimidates, isolates or discriminates against another person;
- workplace pranks, vandalism;
- gossiping or spreading malicious rumours about a co-worker or management;

- excluding or ignoring someone, including persistent intentional exclusion of a particular person from workplace-related social gatherings;
- intruding on another individuals personal space and/or personal belongings, without a bona fide reason;
- throwing property, slamming property, sarcastic remarks, gestures and/or blocking one's movement;
- undermining someone else's efforts by setting impossible goals, with unreasonable/unachievable deadlines;
- deliberately withholding information which an individual requires to do their job and which they had a right to know;
- providing only demeaning or trivial tasks in place of normal job duties;
- humiliating someone;
- sabotaging someone else's work;
- displaying or circulating offensive pictures or materials;
- offensive or intimidating phone calls or e-mails;
- impeding an individual's effort at promotions or transfers for reasons that are not bona fide or for good faith reasons;
- making false allegations about someone in memos or other work-related documents; or
- intentional collusion and/or collaboration to undermine the integrity of the operation.

6.0 Violence (Workplace)

Workplace violence is any action, threat, gesture or conduct by a person towards an employee in the workplace that can be reasonably expected to cause harm, injury or illness to another. It also includes any form of domestic violence that an employee may experience in the workplace. It is a crime to assault another person and the appropriate law enforcement will be contacted. There may be instances of violence that occur in the workplace that require a designated employee or employees to contact the Akwesasne Mohawk Police Service (AMPS) immediately (i.e. without consultation with the HR Manager or the Executive Director).

Workplace violence includes but is not limited to:

- disruptive behaviour and acts of aggression that are inappropriate in the workplace, such as swearing, yelling, vandalism, sabotage, theft and anger-related incidents;
- unwanted or hostile physically aggressive behaviour such as assault, hitting, kicking, spitting, shaking a fist at someone, finger-pointing, shoving, standing excessively close to someone in an aggressive manner, pushing, throwing objects, property damage and fighting;
- verbal or written threats;
- any action which a reasonable person would believe would cause injury, harm or endanger the safety of themselves or others;
- wielding a weapon at work;

- bringing a weapon to work;
- stalking; or
- statement(s) or behaviours that are reasonable for an employee to interpret as a threat to exercise physical force against the employee that could cause physical injury.

7.0 Risk Assessment

A Risk Assessment is the process whereby an immediate supervisor is responsible to:

- identify hazards and any potential hazards;
- analyze or evaluate the risks associated with that hazard; and
- determine appropriate measures to eliminate or control the hazard(s).

It is a thorough review of the job description and the workplace to identify hazards and potential hazards that may cause harm or injury. After identification is made, an evaluation is completed to eliminate or reduce the risk of harm or injury. The end result is a decision into what measure(s) should be put in place to effectively prevent or control the hazard(s).

This Respect in the Workplace Policy and Procedures Manual outlines the procedures for completing the Risk Assessment. (See Respect in the Workplace Policy and Procedures Manual, Risk Assessment Administrative Directive, Tab 5.)

Roles and Responsibilities

The specific roles and responsibilities of management with regard to Respect in the Workplace Policy and Procedure Manual are detailed below within Management Responsibilities, however, it is recognized that individuals who are responsible for the implementation of management functions are also employees of the MCA organization and that the Employee Responsibilities below will also apply to those individuals should a situation occur that requires them to refer to section (b).

All employees must do their part by ensuring that their behaviour does not violate this Policy and by fostering a work environment that is based on respect and dignity and is free of harassment, bullying, violence and discrimination.

(a) Management Responsibilities

1. To ensure a healthy and safe work environment, free from any form of bullying, discrimination, harassment, including sexual harassment, and/or violence.
2. To serve as point of contact on behalf of the MCA and to provide external service providers, suppliers and clients with a copy of this Policy and acknowledgement of receipt of Policy.

3. To undertake a risk assessment to identify potential hazards and risks.
4. To educate, inform and provide a copy of this Policy to community members who may be a client of their program or to whom they provide a service.
5. Upon receipt of a complaint(s) that could constitute a violation of this Policy, Management is responsible to refer to and implement the Respect in the Workplace Policy and Procedures Manual and address all harassment, including sexual harassment, discrimination and violence complaints that are received against an external contractor or an individual who is not an employee of the MCA (e.g. a community member, client, supplier, consultant, council member etc.) in the course of their dealings with the MCA.
6. To ensure that they convey to their employees the importance of complying with the policies and procedures established and authorized for implementation by the MCA and the Executive Director.
7. To ensure that employees are provided with training, instruction and information on the Respect in the Workplace Policy and Procedures Manual.
8. To review the effectiveness of this Policy at least every three (3) years.

(b) Employee Responsibilities

1. To ensure a healthy and safe work environment, free from any form of bullying, discrimination, harassment, including sexual harassment, and/or violence.
2. Employees are required to report to their supervisor, the existence of any workplace violence or threat of workplace violence, harassing/discriminating behaviour and or sexual harassment.
3. If an employee believes that they are being harassed or bullied the first thing to do is to tell the person to stop. They should do so as soon as they receive any unwelcome comment or conduct. Although this may be difficult to do, telling the harasser that their actions are unwelcomed, is often enough to stop the behaviour. Some of the things an employee can say that may stop the behaviour might include;
 - “I don’t want you to do that.”
 - “Please stop doing or saying...”
 - “It makes me uncomfortable when you...”
 - “I don’t find it funny when you...”

4. Any employee who experiences sexual harassment, harassment, bullying, discrimination, and/or workplace violence should keep a record of any such incident(s). This includes when the harassment/bullying or violent incident occurred, the details of what happened, whether there are any witnesses and what their personal response was.
5. If the harassment, sexual harassment, bullying, discrimination, and/or workplace violence continues after the employee has confronted the alleged harasser/aggressor, the employee will provide a signed written statement as per the procedures outlined in the applicable Chapter contained within Tab 2 of this Respect in the Workplace Policy and Procedures Manual, of the incident to their immediate supervisor. The written statement should include particulars including who, what, where, and when the incident(s) occurred and names of any potential witnesses.
6. In the event the alleged harasser/aggressor is the employees' supervisor, the employee is required to report the incident to their supervisor's supervisor, as per the procedures outlined in the applicable Chapter contained within Tab 2 of this Respect in the Workplace Policy and Procedures Manual (Executive Director, Director, Manager and Immediate Supervisor).
7. In the event the alleged harasser/aggressor is a member of Council, the *Ethical Conduct Law* will apply.
8. If an employee believes that someone who is not an employee of the MCA (e.g. a community member, client, supplier, consultant, council member etc.) has harassed or discriminated against an employee, the harassment should be reported in writing to the immediate supervisor. Every effort will be made to address the issue and prevent further problems from arising.
9. Where an employee is named or determined to be a witness in a harassment investigation, they are expected to fully cooperate with the investigation throughout the process and are to refrain from discussing the complaint with anyone except the investigator.
10. Employees will be responsible to ensure that they attend the educational awareness training that will be provided to all employees.
11. Employees will be required to sign a document indicating that they have received, read, understand, and have been trained on the "Respect in the Workplace Policy". The signed acknowledgement will be retained in the employee's personnel file in the HR office.

Consequences of Violating this Policy

Employees who violate this Policy will be subject to disciplinary action, up to and including dismissal from employment.

False accusations of workplace harassment, bullying and/or workplace violence undermine the integrity of this Policy. Accordingly, if it is determined that anyone has made a false accusation of harassment, bullying and/or violence knowingly, in bad faith or in a malicious manner; the Complainant will be subject to disciplinary action up to and including dismissal from employment.

Any person who taunts, retaliates against, or threatens anyone in relation to a harassment, sexual harassment, bullying, discrimination, and/or workplace violence complaint may be disciplined or terminated.

Community members who are in violation of this Policy could have services temporarily suspended until the violation has been addressed and remedied.

External contractors, suppliers or service providers who are in violation of this Policy could result in termination of the contract for services.

Confidentiality of Complaints and Investigations

The MCA recognizes the sensitive nature of harassment, sexual harassment, bullying, discrimination, and/or workplace violence complaints and will keep all complaints/reports confidential, to the extent that they are able to do so, and will only release as much information as is necessary to investigate and respond to the complaint or situation. Only those who “need to know” will be apprised of the complaint and disclosure will be limited to those necessarily involved for purpose of investigation of the complaint or taking remedial action in relation to the complaint. Employees are expected to maintain strict confidentiality if they are involved in a complaint whether as a complainant, respondent, witness or investigator.

Protection from Retaliation

The MCA will not tolerate retaliations, reprisals, taunts or threats against any employee who in good faith raises a complaint of harassment, sexual harassment, bullying, discrimination, and/or workplace violence, or takes part in an investigation.

What is NOT considered harassment?

Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the employer’s management of the workplace, including:

- measures to correct performance deficiencies, such as placing someone on a Performance Improvement Plan;

- imposing discipline for workplace misconduct; or
- requesting medical documents in support of an absence from work, or other attendance management measures.

Additional Responsibilities

It is the responsibility of the HR Office to ensure that new employees are provided information and trained on this Respect in the Workplace Policy and Procedures Manual at the time of orientation. Any changes or amendments to this Respect in the Workplace Policy and Procedures Manual will be provided to all employees.

Assistance to Employees

a) Victims

- (i) The Employee Advocate (or the employee's respective association representative) is available for assistance in filing a complaint.
- (ii) Employees who have been victims of sexual harassment, harassment, bullying, discrimination, and/or workplace violence will be referred to the Employee Assistance Program (EAP) for counseling services. Use of such services will be at the employee's sole discretion.
- (ii) Reasonable efforts will be made to ensure the health and well-being of employees.

b) Violators

Employees who violate this Policy may be required to attend the EAP in addition to any other disciplinary/corrective action that may be taken.

Procedures

The Respect in the Workplace Policy and Procedures Manual outlines the procedures for:

- Filing a complaint
- Mediation
- Administrative Investigations
- Risk Assessment

POLICY COMPLIANCE AGREEMENT

I, _____ acknowledge that I have received, read, been trained and understand the Mohawk Council of Akwesasne ***Respect in the Workplace Policy*** (MCR 2013/2014 - #283).

I agree that it is my responsibility to comply and conduct myself with integrity and display at all times, professionalism through respectful attitudes and behaviors.

I agree to adhere to this policy and understand that if I violate this policy that I may face legal, punitive or corrective action up to and including termination of employment and/or criminal prosecution.

Name: _____ Job Title: _____
(Please Print)

Program/Department: _____

Signature: _____

Date: _____

Immediate Supervisor, HR Rep or Training Instructor:

(Please Print)

(Signature)

Date: _____

Instruction: Upon completion of training on the Respect in the Workplace Policy and Procedures, please return this signed agreement to the HR Office, Admin I, for filing with your personnel file.