



MOHAWK COUNCIL OF KANESATAKE

WORKPLACE HARASSMENT AND VIOLENCE PREVENTION POLICY

Approved by Council: March 19, 2024

Approved by Resolution # 042.2324.00069

(Replaces the previous Discrimination, Harassment and Workplace Violence Prevention Policy, approved by BCR #011.1516.00069)

TABLE OF CONTENTS

2.	DEFINITIONS	3
3.	MCK'S MISSION STATEMENT ON THE PREVENTION OF AND PROTECTION AGAINST HARASSMENT AND VIOLENCE IN THE WORKPLACE	5
4.	PURPOSE	6
5.	SCOPE	7
6.	RESPONSIBILITIES	8
7.	KEY DEFINITIONS.....	10
	7.1) HARASSMENT	10
	7.2) WORKPLACE	10
	7.3) DISCRIMINATION	10
	7.4) TOXIC WORK ENVIRONMENT.....	11
	7.5) WORKPLACE VIOLENCE	11
	7.6) GENERAL EXAMPLES OF WORKPLACE HARASSMENT AND VIOLENCE.....	11
8.	NOTICE OF OCCURENCE - PROCEDURES AND INVESTIGATIONS.....	12
	8.1) INITIAL REVIEW OF THE NOTICE OF OCCURRENCE.....	12
	8.2) NEGOTIATED RESOLUTION.....	12
	8.3) CONCILIATION	13
	8.4) INVESTIGATION.....	13
	8.5) MAXIMUM DURATION.....	14
9.	EMERGENCY PROCEDURES.....	15
10.	TRAINING AND SUPPORT	15
11.	REPORTING AND RECORD-KEEPING	16
12.	WORKPLACE ASSESSMENTS	16
13.	HEALTH & SAFETY COMMITTEE	16
14.	PRIVACY PROTECTION	17
15.	RECOURSE	17
16.	SUPPORT MEASURES.....	17
17.	PROTECTION AGAINST REPRISAL.....	18
18.	COMPLAINTS RELATED TO EMPLOYER NON-COMPLIANCE WITH THE CODE OR REGULATIONS	18
	ANNEX A: WORKPLACE HARASSMENT AND VIOLENCE NOTICE OF OCCURRENCE FORM....	19

1. EFFECTIVE DATE

This Workplace Harassment and Violence Prevention Policy was approved by Council on March 19, 2024 and is effective as of March 19, 2024. It will be reviewed at least every three (3) years.

In the event a new or amended version is not approved by March 19, 2027, this version will remain in force.

2. DEFINITIONS

<i>Council</i>	The Elected members of the Mohawk Council of Kanesatake (MCK).
<i>Conciliation</i>	A discussion or series of discussions that is mediated by a neutral third party who is there to facilitate the discussion(s) and assist the parties involved in reaching resolution. All parties involved in conciliation must mutually agree to participate in conciliation and on the person who will be acting as the conciliator. A conciliator can be a professional mediator, a supervisor, an Elder, a colleague, <i>etc.</i>
<i>Designated Recipient</i>	Means a work unit in a workplace or person that is designated by an employer under section 14 of the <i>Canadian Workplace Harassment and Violence Prevention Regulations</i> , and to whom a notice of an occurrence may be provided.
<i>Independent Contractor</i>	Means a person or company whose services MCK has retained under a contract of service; who is free to choose the means of performing the contract of service; who is not subordinate to the Council or to any member of the staff of MCK; or who has a chance of profiting from, and assumes the risk of loss under, the contract of service.
<i>MCK</i>	Mohawk Council of Kanesatake.
<i>Mohawk Council of Kanesatake</i>	The legal governing body of Kanesatake and its territory.
<i>Negotiated Resolution</i>	Any form of communication between the participating parties to discuss the occurrence and to attempt to reach agreement on possible actions to resolve the occurrence.
<i>Occurrence</i>	An occurrence of harassment and/or violence in the workplace.
<i>Principal Party</i>	An employee or employer who is the object of an occurrence.
<i>Resolution process</i>	All the avenues of resolution – negotiated resolution, conciliation, and investigation.

4. PURPOSE

The purpose of this Workplace Harassment and Violence Prevention Policy is to set out the expectations and procedures which provide a framework for the administration of the Mohawk Council of Kanesatake in the prevention and management of discrimination, workplace harassment and violence. It is intended to provide descriptions and explanations to all Mohawk Council of Kanesatake employees in regards to discrimination, workplace harassment and violence.

The key goal of this Workplace Harassment and Violence Prevention Policy is to ensure:

- MCK is a healthy and safe workplace where every employee has the right to be treated with respect;
- The workplace is respectful of the goals, dignity, and self-esteem of every employee;
- The employees are free from discrimination and harassment in accordance with their rights under the applicable human rights and labour standards legislation;
- The employees or managerial staff are guided in regards to the steps to be taken to ensure a workplace free of discrimination, workplace harassment and violence;
- The employees or managerial staff are guided in regards to the steps to be taken or support they may request if they are facing a situation of discrimination, harassment, or workplace violence;
- The protection of all employees who may be victims of harassment, discrimination, or violence. Internal measures of assistance and redress will be implemented whether the harassment, discrimination or violence comes from inside or outside the organization.

5. SCOPE

This Workplace Harassment and Violence Prevention Policy applies to all Mohawk Council of Kanesatake employees and Council.

Words in the singular include the plural, and words in the plural include the singular.

Where a word is defined, other parts of speech and grammatical forms of the same word have corresponding meanings.

A reference to an enactment is a reference to that enactment as it is amended or replaced from time to time and includes all regulations made under that enactment.

Where there is a conflict between this Policy and the procedures and terms of the *Canada Labour Code*, the Canadian Human Rights Commission and the *Canada Occupational Health and Safety Regulations*, then the procedure or term that is more favourable to the employee shall apply.

Responding Party

The person who is alleged to have been responsible for the occurrence in a notice of an occurrence provided under subsection 15(1) of the Canadian *Workplace Harassment and Violence Prevention Regulations*.

Workplace

Any place where an employee is engaged in work for the employee's employer, as per subsection 122(1) of the *Canada Labour Code*.

3. MCK'S MISSION STATEMENT ON THE PREVENTION OF AND PROTECTION AGAINST HARASSMENT AND VIOLENCE IN THE WORKPLACE

MCK is committed to providing a healthy and safe work environment, free from violence, threats of violence, harassment, intimidation, and disruptive behavior for all employees.

Having a healthy and safe work environment is a continuous process that requires the participation of everyone at the Mohawk Council of Kanesatake, including employees, managers, Council, the community and any other partner or service providers. This is accomplished by:

- listening and allowing others to speak;
- being supportive, cooperative, and inclusive;
- expressing differences of opinion constructively and professionally; and,
- respecting professional boundaries.

6. RESPONSIBILITIES

The Council is responsible for:

- Approving this Workplace Harassment and Violence Prevention Policy;
- Approving amendments to this Workplace Harassment and Violence Prevention Policy;
- Approving budgets to provide sufficient training and sensitization on discrimination, workplace harassment and violence identification and prevention;
- Contributing to a positive workplace;
- Complying with this Policy;
- Avoiding actions which may embarrass or offend others, whether deliberate or unintentional;
- Being supportive of an employee that may share sensitive information in regard to an occurrence and referring, when possible, this person to the appropriate resources or Designated Recipients; and,
- Respecting the confidentiality of the process and information received.

The Human Resources Manager is responsible for:

- Ensuring the application and enforcement of this Workplace Harassment and Violence Prevention Policy throughout the organization;
- Proposing a budget to the Finance Manager for the training and sensitization on discrimination, workplace harassment and violence prevention;
- Suggesting amendments to this Policy;
- Respecting the confidentiality of the process and information received.

The Managers are responsible for:

- Ensuring all employees under their supervision have access to consult this Workplace Harassment and Violence Prevention Policy;
- Educating the employees under their supervision about this Policy and requesting training where necessary;
- In the event of a notice of occurrence submitted to the Manager, referring the employee to the Designated Recipient as per this Policy;
- Contributing to a positive workplace;
- Complying with this Policy;
- Avoiding actions which may embarrass or offend others, whether deliberate or unintentional;
- Being supportive of an employee that may share sensitive information in regards to an occurrence and referring, when possible, this person to the appropriate resources or designated recipients; and,
- Respecting the confidentiality of the process and information received.

Employees are responsible for:

- Contributing to a positive workplace;
- Complying with this Policy;

- Avoiding actions which may embarrass or offend others, whether deliberate or unintentional;
- Being supportive of an employee that may share sensitive information in regards to an occurrence and referring, when possible, this person to the appropriate resources or Designated Recipients; and,
- Respecting the confidentiality of the process and information received.

The Designated Recipients are responsible for:

- Receiving notices of occurrence;
- Preparing a response within the prescribed time frame, under applicable regulation;
- Managing the negotiated resolution efforts; and,
- Producing monthly updates for all involved parties, unless an Investigator has been selected for a workplace investigation.

The Health & Safety Committee is responsible for:

- Implementing the preventive measures;
- Jointly reviewing and updating, with MCK, the workplace assessment;
- Jointly determining, with MCK, which of the investigator's recommendations from the investigation report are appropriate to implement;-
- Jointly determining/developing, with MCK, the trainings for the employees;
- Jointly determining, with MCK, which of the investigator's recommendations are appropriate to implement.

7. KEY DEFINITIONS

Definitions can be found in section 3 of this Policy. Nevertheless, a few terms are to be used frequently in this Policy and their understanding is highly important for anyone consulting this Policy. This section aims at providing more information for each of these definitions.

7.1) Harassment

As defined in the *Canada Occupational Health and Safety Regulations*, harassment is:

“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, including any prescribed action, conduct or comment.” (subsection 122(1) of the *Canada Labour Code*, definition of “*harassment and violence*”)

As a rule of thumb, harassment can be identified as behaviour or actions that are:

1. Vexing
2. Repetitive
3. Undesired or hostile
4. Affect the dignity, physical or psychological integrity of the victim

Harassment can sometimes be hard to identify, and therefore an employee feeling they may potentially be a victim of harassment should not hesitate to seek out and receive the appropriate support from MCK.

Harassment is prohibited.

7.2) Workplace

Under federal regulation, workplace is defined as:

“Any place where an employee is engaged in work for the employee’s employer as per 122(1) of the *Canada Labour Code*.”

Workplace is a broad concept and can imply various situations and locations. This means it includes regular workspace but also remote or teleworking places and/or locations, vehicles, *etc.*

7.3) Discrimination

According to the Canadian Human Rights Commission: “Discrimination is an action or a decision that treats a person or a group badly for reasons such as their race, age, or disability. These reasons, also called grounds, are protected under the *Canadian Human Rights Act*.”

Grounds for discrimination can be one or more of any of the following conditions: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital

status, family status, disability, genetic characteristics, or a conviction for which a pardon has been granted or a record suspended.

No employee or group of employees should receive unequal treatment based on the grounds mentioned above.

7.4) Toxic Work Environment

A toxic work environment is a workplace in which the behaviour, attitudes, or actions of individuals or groups create an atmosphere that is harmful, hostile, or uncomfortable for employees. This can be caused by a variety of factors, including but not limited to: discrimination, harassment, bullying, lack of support or recognition, unprofessional behaviour, or a lack of clear communication and boundaries.

A toxic work environment can negatively impact an employee's physical and mental health, job satisfaction, and overall well-being, and can lead to high turnover rates, decreased productivity, and a negative work culture.

7.5) Workplace Violence

Workplace violence can be defined as physical or non-physical violence which includes the threatened, attempted or actual work-related incident of physical force or psychological abuse which can result in physical, emotional and sexual injury, harm, or trauma. Workplace violence includes sexual harassment, harassment, bullying, and lateral violence which may also include cyber-bullying.

7.6) General Examples of Workplace Harassment and Violence

Here is a non-exhaustive list of examples of workplace harassment and violence:

- Aggressive or threatening behaviour;
- Physical assault;
- Spreading malicious rumours, gossip, or innuendo about a person;
- Intimidating a person; pranks, jokes or other comments that belittle, demean, or humiliate a person, or knowingly make a person uncomfortable in the workplace;
- Making offensive and/or inappropriate comments that invoke the grounds for discrimination;
- Sexist jokes;
- Unwelcomed or uninvited physical contact;
- Display or circulation of offensive pictures, graffiti, cartoons, or other material;
- Suggestive or offensive remarks;
- Discussions of a sexual nature;
- Social media spying;
- Verbal abuse;
- Inappropriate comments about clothing and/or physical appearance.

8. NOTICE OF OCCURENCE - PROCEDURES AND INVESTIGATIONS

This section includes all the procedures in regard to submitting a notice of occurrence (complaint) to MCK and all procedures that must be followed. It is important to understand that each occurrence is different and requires specific action(s). These procedures are general and may require flexibility under special circumstances.

If an employee is subject to a minor incident, when possible, MCK recommends that the employee address the situation with the colleague or supervisor in question. For example, a minor occurrence such as unwelcomed comments could be addressed directly.

If an employee is subject to a major incident, they may take direct actions and submit a notice of occurrence to the MCK's Designated Recipient. The Designated Recipient is the individual identified by MCK to receive a notice of occurrence and to take appropriate actions. You may contact the following designated recipient to submit a notice of occurrence:

François Lapointe, CHRP

Human Resources and Management Consultant

E-mail: mck.noticeofoccurrence@lapointeconsulting.ca

The following procedure should be followed:

8.1) Initial review of the Notice of Occurrence

1. Notice of Occurrence: The Principal Party must submit a verbal or written notice of occurrence to the Designated Recipient. A witness may also provide notice of an occurrence, including anonymously.
2. Within seven (7) calendar days upon receipt of the notice of occurrence, the Designated Recipient will contact the Principal Party. The same information must be provided to all parties and should include:
 - a. Confirmation the notice of occurrence has been received;
 - b. Describe how to access the Workplace Harassment and Violence Prevention Policy;
 - c. Explain each step in the resolution process; and,
 - d. Inform the parties that they may be represented throughout the resolution process.
3. A monthly update must be provided to all parties throughout the resolution process.

8.2) Negotiated Resolution

1. Negotiated Resolution is the first attempt to resolve the situation, following receipt of the Notice of Occurrence. Every party involved at this point must take every reasonable effort to resolve the occurrence during the negotiated resolution effort.
2. The Negotiated Resolution efforts must begin within 45 days after receipt of the Notice of Occurrence.

3. The goal of Negotiated Resolution is to determine if the occurrence meets the definition of harassment and/or violence within the meaning of the *Canada Labour Code*.
4. The Negotiated Resolution may lead to a joint understanding between the Principal Party and the Designated Recipient that the reported situation does not constitute harassment, discrimination, or violence.
5. In the event the Negotiated Resolution leads to a resolution, the Designated Recipient puts in writing the outcome of the resolution process, and both the Designated Recipient and Principal Party sign the document. A copy is kept on file.
6. In the event the Negotiated Resolution does not lead to a resolution, the Principal Party may choose the next step to be:
 - a. Conciliation; or,
 - b. Investigation.

8.3) Conciliation

1. Conciliation efforts can be initiated only if both the Principal Party and the Responding Party agree.
2. The Principal Party, Responding Party and the Designated Recipient will agree on the process.
 - a. For example, the Conciliation process could be a Talking Circle where an Elder is responsible to lead the conversation.
 - b. It could also be a meeting presided by a knowledgeable resource that is mutually acknowledged as such and jointly appointed by the parties.
3. Conciliation efforts can take place at any time, as long as no workplace investigation report was submitted.
4. In the event the Principal Party is unsatisfied with the conciliation process or results thereof, they may request for a third-party investigation to be held.

8.4) Investigation

1. The Designated Recipient will propose an Investigator. The selected Investigator must be agreed upon by the Principal Party and the Responding party. In the event one or both parties refuse the Investigator, the Designated Recipient will propose another Investigator, and so on.
2. The Investigator must have the following qualifications:
 - a. Have experience related to harassment and violence investigations in the workplace;
 - b. Have experience applying federal, provincial, or territorial labour acts, regulations, or harassment policies;
 - c. Have experience applying the *Canadian Human Rights Act*;
 - d. Have experience conducting workplace investigations;
 - e. Have experience writing investigation reports;
 - f. Be knowledgeable of harassment and violence in the workplace;
 - g. Be knowledgeable of the *Canada Labour Code*;
 - h. Be knowledgeable of the *Canadian Human Rights Act*.

3. At any point of the investigation, an Investigator who realizes a risk of conflict of interest has arisen must inform the Designated Recipient, for the investigation to be transferred to another Investigator.
4. Once selected, the Investigator is responsible to conduct the investigation.
5. Once the investigation is completed, the Investigator must submit a report including:
 - a. A general description of the occurrence (without disclosing the identity of any involved individual(s));
 - b. The Investigator's analysis and finding(s); and,
 - c. The Investigator's recommendations to eliminate or minimize the risk of a similar occurrence.
6. A copy of the report must be provided to:
 - a. The Principal Party
 - b. The Responding Party
 - c. The Designated Recipient
 - d. Health & Safety committee
7. MCK's Human Resources and the Health & Safety Committee must jointly determine which recommendation(s) to implement. Both have an obligation to implement corrective measures.

8.5) Maximum duration

The entire resolution process must be completed within one year following receipt of the Notification of Occurrence.

9. EMERGENCY PROCEDURES

MCK is committed to be a safe employer where employees always have the right to a healthy and safe work environment. Employees should receive the appropriate support in the event of a threat to their health and safety. It may also happen that an employee will face an occurrence or the threat of an occurrence that constitutes an immediate danger for their health and safety. In such event, emergency procedures must be taken to protect the employee's health and safety.

Examples of imminent threats could be:

- Being left alone with the potential harasser;
- Being the victim of violent behaviour of a colleague or someone else; or,
- Any other occurrence that is threatening the health and safety of an employee.

In such event, the employee should call 911 or get support from MCK Human Resources Manager or a member of the Health & Safety Committee. The employee must take the best actions to guarantee their health and safety while emergency support is on its way, including if necessary leaving the area where the threat is arising.

Following an emergency threat, MCK and the Health & Safety Committee will assess the situation and implement preventive measures as soon as possible.

10. TRAINING AND SUPPORT

Training must be provided to all employees, at least once every three (3) years and the training program must be reviewed at least once every three (3) years. For newly hired employees, the training should be provided within three (3) months of their hiring.

The training must include:

- Elements of workplace harassment and violence prevention policy;
- Description of relationship between workplace harassment and violence and the prohibited grounds of discrimination set out in the *Canadian Human Rights Act*;
- Description of how to recognize, minimize, prevent, and respond to workplace harassment and violence;
- Information on available psychological or other support services in their geographical area.

The MCK and the Health & Safety Committee are responsible for the training curriculum and the implementation of the program.

11. REPORTING AND RECORD-KEEPING

All files related to an occurrence described in this Policy must be kept on file for a minimum of ten (10) years by the Human Resources Manager.

An annual report will be completed according to the applicable regulation.

12. WORKPLACE ASSESSMENTS

Workplace assessments must be conducted by Human Resources and the Health & Safety Committee a minimum of once per year.

Workplace assessments must be updated each time a Notice of Occurrence is provided and:

- The Principal Party ends the resolution process, leaving the occurrence unresolved; or,
- The Responding Party to an occurrence is a third party.

The purpose of the assessment is to identify the risk factors in MCK workplaces. The following should be considered:

- MCK's cultural dynamics and structure of the organization.
- External risk factors.
- Reports, records, and dates related to harassment and violence.
- Physical design of workplace.
- Measures currently in place to protect psychological health and safety of the workplace.

When new risk factors are identified, MCK and the Health & Safety Committee will take necessary actions to develop and implement preventive measures.

13. HEALTH & SAFETY COMMITTEE

Under the regulations, the Health & Safety Committee is known as the Applicable Partner. The Health & Safety Committee's responsibilities are found under section 7 of this Policy.

More details on the Health & Safety Committee are included in the MCK's Occupational Health and Safety Policy.

14. PRIVACY PROTECTION

MCK is committed to the protection of privacy of individuals subject to an occurrence. As such, the federal *Privacy Act* and *Personal Information Protection and Electronic Documents Act* will be respected.

15. RECOURSE

If the employee is not satisfied with the result of the investigation, they may:

- Pursue recourse under the *Canadian Human Rights Act* before the Canadian Human Rights Commission;
- Pursue recourse under subsection 127.1(8) of the *Canada Labour Code*;
- Request a judicial review of the investigation by the Federal Court; or,
- Pursue recourse under the *Criminal Code*.

16. SUPPORT MEASURES

In the event of an incident, a victim of workplace harassment or violence may require support from professional resources. Below is a list of local resources:

- **For imminent threat or a risk to your life: call 911**
- Kanesatake Health Center
 - Phone: 450-479-6000
- Sexual Violence Helpline (24/24, 7 days a week)
 - Phone: 1-888-933-9007
- CAVAC – Crime Victims Assistance Centre
 - Phone: 1-888-933-2822
 - By email: cavac.lau@qc.aira.com
 - Website: <https://cavac.qc.ca/en/contact/>
- CALACS – *Centre d'aide et de lutte contre les agressions à caractère sexuel*
 - “Center for assistance and the fight against sexual assault”
 - Phone: 1-877-717-5252
 - By email: info@rqcalacs.qc.ca
 - Website: <http://www.rqcalacs.qc.ca/index-en.php>

- GAIHST – *Groupe d'aide et d'information sur le harcèlement au travail de la province de Québec*
 - “Quebec workplace harassment help and information group”
 - Phone: 514-526-0789
 - Website: <https://www.gaihst.qc.ca/contact-us>

Other services may be found on the *Association Québécoise Plaidoyer-Victimes* website:
Website: <https://aqpv.ca/en/welcome-to-the-aqpv/>

MCK's Human Resources Department

- Phone: 450-479-8373, ext.: 117

17. PROTECTION AGAINST REPRISAL

Parties involved in an occurrence are prohibited from seeking retaliation. Parties who experience any retaliatory action or threat of retaliatory action are encouraged to inform Human Resources.

18. COMPLAINTS RELATED TO EMPLOYER NON-COMPLIANCE WITH THE CODE OR REGULATIONS

In accordance with section 127.1 of the *Canada Labour Code* or other applicable regulation, if an employee believes that there has been a contravention of the *Code* relating to an occurrence of harassment and violence, the employee may make either a verbal or a written complaint to the Human Resources Manager at (450) 479-8373, ext.: 117 or at humanresources@kanesatake.ca.

Annex A: Workplace Harassment and Violence Notice of Occurrence Form



Workplace Harassment & Violence Prevention Notice of Occurrence (Complaint)

Filled by:

Name:

Department:

Position:

Date:

- ☐ I believe I am/was victim of workplace harassment and/or violence
- ☐ I believe I've witnessed workplace harassment and/or violence
- ☐ Other (please explain):

What is the date of the last occurrence?

IMPORTANT: Please submit this Notice of Occurrence to Mr. François Lapointe, CHRP at MCK.noticeofoccurrence@lapointeconsulting.ca.

Please provide details of the situation (If required, please attach additional pages with this form):

☐ I would prefer a designated recipient to contact me to provide my notice of occurrence verbally.

I hereby declare that the information provided is true and correct. I also understand that any willful dishonesty may lead to disciplinary measures.

Signature:

Date:

Reserved for Designated Recipient

Name of the Designated
Recipient:

Signature :

Date received:



MOHAWK COUNCIL OF KANESATAKE

Workplace Harassment and Violence Prevention Policy

Acknowledgement of Receipt

I, _____, acknowledge having received the Workplace Harassment and Violence Prevention policy, approved by the Mohawk Council of Kanesatake on March 19, 2024. As an employee it is my duty to read, understand and respect the provisions included in the policy.

Date _____

Employee Signature

Program Manager

Once this form is signed by the employee, the Program Manager is responsible to forward it to the Human Resources Department.