

POLICY AND PROCEDURE	
Title: Harassment Prevention Policy and Program	Category: Human Resources
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POLICY

The Niagara North Family Health Team and its associated Family Health Networks (Garden City and Niagara on the Lake) are committed to providing a work environment in which all staff are treated with respect and dignity.

No one has the right to harass a staff member at work or in any situation related to the workplace. This policy is one step toward ensuring that our workplace is a comfortable place for all of us.

The Niagara North Family Health Team promises to treat all incident and complaints of harassment seriously, whether they are made informally or formally. We undertake to act on all incidents and complaints to ensure that they are resolved quickly, confidentially, and fairly. We will discipline anyone who has harassed a staff member. We will discipline managers who do not act properly to end harassment.

SCOPE

This Policy applies to all full-time, part-time, temporary and casual employees. Learners completing placements at the NN FHT will follow the policies and procedures set out by their discipline's governing body or alternatively by their affiliated academic institution. Inappropriate workplace behavior or violence in the workplace are addressed in the Workplace Violence and Behaviour Policy.

This Policy applies to all incidents and complaints of workplace harassment perpetrated against staff by any other staff, including supervisors or other members of management, patients, physicians, suppliers or any person working on behalf of or affiliated with the Niagara North

Family Health Team.

Staff who subject other staff to workplace harassment may be subject to disciplinary action up to and including termination of employment for cause or any other applicable and available disciplinary remedies. This policy will be reviewed annually by the Joint Occupational Health and Safety Committee, or more frequently if necessary to ensure that it accurately represents the Niagara North Family Health Team Prevention Program.

Other perpetrators of workplace harassment will be subject to whatever measures are reasonably available to ensure a healthy and safe work environment.

The Niagara North Family health team will not permit discrimination of any kind against job candidates or at any point during the interview and hiring process.

DEFINITIONS

Harassment means engaging in a course of vexatious comment or conduct against a staff member in a workplace that is known or ought reasonably to be known to be unwelcome or workplace sexual harassment. Examples of harassment include:

- making remarks, jokes or innuendos that demean, ridicule, intimidate, or offend
- displaying or circulating offensive pictures or materials in print or electronic form

Sexual harassment means:

- 1) engaging in a course of vexatious comment or conduct against a staff member in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- 2) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the staff member and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

Examples of sexual harassment include:

- any unwelcome sexual advance or request for sexual favours
- implied or expressed threat of reprisal for refusal to comply with a sexually oriented request
- unwelcome remarks, jokes, innuendos, propositions, or taunting about a person's body, attire, sex or sexual orientation
- physical contact with an underlying sexual connotation
- leering or inappropriate staring
- displays of pornographic or sexual material
- bragging about sexual prowess
- Inquiries or comments about a person's sex life or sexual behavior

Racial Harassment/Ethnic Harassment

Racial or ethnic harassment is defined as any conduct or comment which causes humiliation to an employee because of their racial or ethnic background, their colour, place of birth, citizenship or ancestry.

Examples are racial or ethnic harassment would include

1. Insulting jokes or comments based on racial or ethnic grounds
2. Displaying racist or derogatory pictures of other offensive material

Harassment does **not** include reasonable action taken by the employer or supervisor relating to the management and direction of staff or the workplace is not workplace harassment or discrimination, including but not limited to the following types of activities:

- direction to staff that is part of the normal job function of a staff member
- changes in work assignments or scheduling
- job assessment and evaluation
- workplace inspections
- implementation of dress codes
- disciplinary action

REPORTING WORKPLACE HARASSMENT

A. How to report workplace harassment

Employees can report incidents of workplace harassment or discrimination verbally or in writing. The report may be about the staff member directly or incidents they have witnessed.

The report of the incident should include the following information (use NN Incident Report Form):

- Name(s) of the staff member who has allegedly experienced workplace harassment and contact information
- Name of the alleged harasser(s), position and contact information (if known)
- Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known)
- Details of what happened including date(s), times, frequency and location(s) of the alleged incident(s)
- Any supporting documents the staff member may have in his/her possession that are relevant to the complaint.
- List any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.

An incident or a complaint of workplace harassment should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a timely manner.

B. Who to report workplace harassment to

Employees should report any incidents or complaints of workplace harassment to:

- a. Their immediate manager. All managers must report any incidents or complaints of harassment to the Executive Director (FHT) or the Administrative Lead/Operations Manager (GC and NOTL FHNs).
- b. If the immediate manager is the person engaging in the harassment, then report to the Executive Director or the Administrative Lead/Operations Manager (NOTL and GC FHNs)
- c. If the Executive Director is the person engaging in the harassment, then report to the Chair of the Board.
- d. If a Board member is the person engaging in the harassment, then report to the Executive Director or another member of the Board. The Board must advise the Executive Director if a harassment complaint is made by a staff member against a Board member unless the Board is concerned this may unduly interfere with the fair investigation of the matter.

INVESTIGATION

A. Commitment to investigate

The Niagara North Family Health Team will ensure that that all incidents or complaints of which it is aware, are investigated in an appropriate manner.

B. Who will investigate

The Executive Director (or Board member if applicable) or the Administrative Lead/Operations Manager (NOTL and GC FHNs) will determine who will conduct the investigation into the incident or complaint of workplace harassment.

C. Timing of the investigation

Investigations will begin immediately upon receipt of a complaint or upon suspicion of harassment or bullying. The investigation must be completed in a timely manner and generally within 90 days or less unless there are extenuating circumstances (i.e. illness, complex investigation, absences etc.) warranting a longer investigation.

D. Investigation process

The person conducting the investigation whether internal or external to the workplace will, generally, ensure the following:

- i. The Investigator must ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation.
- ii. While the investigation is on-going, the staff member who has allegedly experienced harassment, the alleged harasser(s) and any witnesses should not discuss the incident or complaint or the investigation with each other or other staff or witnesses unless necessary

- to obtain advice about their rights. The investigation should remind the parties of this confidentiality obligation at the beginning of the investigation.
- iii. The investigator must thoroughly interview the staff member who allegedly experienced the workplace harassment and the alleged harasser(s), if the alleged harasser is a staff member of the employer. If the alleged harasser is not a staff member, the investigator should make reasonable efforts to interview the alleged harasser.
 - iv. The alleged harasser(s) must be given the opportunity to respond to the specific allegations raised by the staff member. In some circumstances, the staff member who allegedly experienced the workplace harassment should be given a reasonable opportunity to reply.
 - v. The investigator must **separately** interview any relevant witnesses employed by the employer who may be identified by either the staff member who allegedly experienced the workplace harassment, the alleged harasser(s) or as necessary to conduct a thorough investigation. The investigator must make reasonable efforts to interview any relevant witnesses who are not employed by the employer if there are any identified.
 - vi. The investigator must collect and review any relevant documents.
 - vii. The investigator must take appropriate notes and statements during interviews with the staff member who allegedly experienced workplace harassment, the alleged harasser and any witnesses.
 - viii. The investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the staff member who allegedly experienced the workplace harassment, the response from the alleged harasser, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and conclude whether workplace harassment was found or not.
 - ix. The FHT will comply with any regulatory requirements

There may be some exceptions to this investigation procedure, such as when a complaint on its face (meaning if the complaint is proven 100%) does not amount to workplace harassment or sexual harassment or when the parties are in agreement on the facts. In such cases the investigation may be more informal but will be appropriate in the circumstances.

Results of the investigation

Within a reasonable period of time after the investigation being completed, the staff member who allegedly experienced the workplace harassment and the alleged harasser, if he or she is a staff member of the employer, will be informed in writing of the results of the investigation and any corrective action taken or that will be taken by the employer to address workplace harassment.

Confidentiality

Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless disclosure is

necessary to protect staff, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

All records of the investigation will be kept confidential.

Interim Measures

During an investigation, the Executive Director (or Board Member if applicable) may:

- a) Suspend the alleged harasser with pay
- b) Separate the complainant and the alleged harasser during an investigation, if necessary and if reasonably possible.
- c) Take any other action reasonable and necessary in the circumstances

Persons who violate this Program may be subjected to a range of consequences, including an apology, training, referral to an assistance program, counselling, reprimands, suspension without pay, transfer, or termination of employment, depending on the nature and severity of the behaviour.

Complaints Made in Bad Faith

This Program must never be used to bring fraudulent or malicious complaints against employees or other parties.

In the rare event that the complaint is made in bad faith – in other words, the person making it had absolutely no basis and deliberately and maliciously filed the complaint – that person will be subject to immediate disciplinary action up to and including termination of employment.

Assurance against Retaliation

This Program encourages employees to freely express any concerns about harassment in the workplace. Employees who make a complaint of harassment must not be penalized nor subjected to any prejudicial treatment as a result of making a complaint in good faith. Witnesses must not be subject to any negative repercussions as a result of participating in an investigation.

Any retaliation by the alleged harasser or anyone acting on behalf of the alleged harasser against anyone involved in the complaint process is strictly prohibited and will result in appropriate disciplinary action.

RECORD KEEPING

The Executive Director (or Board Member if applicable) will keep records of the investigation including:

- 1) a copy of the complaint or details about the incident;
- 2) a record of the investigation including notes;
- 3) a copy of the investigation report (if any);

- 4) a summary of the results of the investigation that was provided to the staff member who allegedly experienced the workplace harassment and the alleged harasser, if a staff member of the employer;
- 5) a copy of any corrective action taken to address the complaint or incident of workplace harassment.

All records of the investigation will be kept confidential. The investigation documents, including this report should not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law.

If the investigation does not find evidence to support a finding of harassment, there will be no documentation concerning the investigation placed in the alleged offender's file. When the investigation reveals harassment has occurred, the incident and the discipline that is imposed will be recorded in the offender's file

Annual review date: The Program will be reviewed annually in January of each year or when any gaps or deficiencies are identified as a result of an investigation. The Joint Health and Safety Committee (or Health and Safety representative if applicable) will be consulted during the annual review.