

Schedule A to By-Law 2016-31

THE CORPORATION OF THE TOWNSHIP OF SABLES-SPANISH RIVERS

BULLYING, HARASSMENT (including Sexual harassment) AND VIOLENCE IN THE WORKPLACE

POLICY

The Township of Sables-Spanish Rivers, as the employer believes that all employees should be able to work in a safe and healthy workplace and as such, makes every effort to eliminate or minimize the risk to employees of bullying, harassment and violence in the workplace. The employer understands that employees have the right to refuse work if they have a reason to believe they are in danger from workplace violence.

Violent behaviour and harassment in the workplace is unacceptable from anyone. This policy applies to workers, council members, visitors, ratepayers, clients and volunteers. Everyone is expected to uphold this policy and to work together to prevent workplace bullying, harassment and violence. The procedure/program that implements this policy includes measures and procedures to protect workers from workplace bullying, harassment and or violence, a means of summoning immediate assistance and a process for workers to report incidents, or raise concerns.

The employer will ensure this policy and the supporting program are implemented and maintained and that all employees and supervisors have the appropriate information and instruction to protect them from bullying, harassment and violence in the workplace.

Supervisors will adhere to this policy and the supporting program. Supervisors are responsible for ensuring that measures and procedures are followed by workers and that workers have the information they need to protect themselves.

Every employee must work in compliance with this policy and the supporting procedure/program and are encouraged to raise any concerns about workplace bullying, harassment and/or violence and to report any incident, violent incidents or threats.

The employer complies with Bill 168, Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace), 2009.

The employer also complies with Bill 132, Schedule 4, amendments to the Occupational Health and Safety Act, in effect September 8, 2016.

BACKGROUND INFORMATION:

Effective September 8, 2016, the Occupational Health and Safety Act amends the definition of workplace harassment and adds a definition of workplace sexual harassment in section 1:

“Workplace harassment” means:

- engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or
- Workplace sexual harassment.

Another amendment is that a reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

“Workplace sexual harassment” means:

- engaging in a course of vexatious comment or conduct against a worker 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
- 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 worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Other changes coming into effect September 8, 2016 include amendments in sections, and any prescribed elements are carried out, in 32.0.6 (1) and (2) that:

- An employer shall, in consultation with the committee or a health and safety representative, if any, develop and maintain a written program to implement the policy with respect to workplace harassment;
- Includes measures and procedures for workers to report incidents of workplace harassment to a person other than the employer or supervisor, if the employer or supervisor is the alleged harasser;
- Sets out how incidents or complaints of workplace harassment will be investigated and dealt with;
- Sets out how information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law;
- Sets out how a worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, will be informed of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation;

And in section 32.0.7 that protect a worker from workplace harassment and require the employer, in addition to carrying out any other such duties as prescribed, to ensure that:

- An investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;
- The worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, are informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation;
- The program developed under section 32.0.6 is reviewed as often as necessary, but at least annually, to ensure that it adequately implements the policy with respect to workplace harassment.

The results of the investigation and any report created in the course of or for the purposes of the investigation are not a report respecting occupational health and safety for the purposes of subsection 25 (2) of the Act.

And in section 32.0.8, that require the employer to provide a worker, in addition to any other prescribed information, with:

- Information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace harassment.

Order for workplace harassment investigation, in a new section 55.3:

- An inspector from the Ministry of Labour may order in writing, an employer to cause an investigation to be conducted at the expense of the employer, by an impartial person possessing such knowledge, experience or qualifications as are specified by the inspector and to obtain, at the expense of the employer, a written report by that person. This report is not a report respecting occupational health and safety for the purposes of subsection 25 (2) of the Act.

Workplace harassment includes comments or conduct that typically happens more than once and could occur over a relatively short period of time; (for example, during the course of one day) or over a longer period of time; (weeks, months or years).

Workplace harassment can involve unwelcome words or actions that are known or should be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers.

It can also include behaviour that intimidates, isolates or even discriminates against the targeted individual(s).

Workplace harassment often involves repeated words or actions, or a pattern of behaviours, against a worker or group of workers in the workplace that are unwelcome.

In addition, workplace harassment could include making remarks, jokes or innuendos that demean, ridicule, intimidate, or offend; displaying or circulating offensive pictures or materials in print or electronic form; bullying; repeated offensive or intimidating phone calls or e-mails; or inappropriate sexual touching, advances, suggestions or requests.

This definition of workplace harassment is broad enough to include harassment prohibited under Ontario's Human Rights Code, as well as what is often called "psychological harassment" or "personal harassment."

The Occupational Health and Safety Act defines workplace violence in Section 1. (1):

"Workplace violence" means,

- a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- b) an attempt to exercise physical force against a worker in a workplace, that could cause physical injury to the worker;
- c) And a statement or behaviour that a worker could reasonably interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

The Ontario Ministry of Labour defines the key terms and concepts of workplace harassment and violence.

The definition of workplace violence is broad enough to include acts that would constitute offences under Canada's Criminal Code.

Examples of workplace violence include verbally threatening to attack a worker; leaving threatening notes at or sending threatening e-mails to a workplace; shaking a fist in a worker's face; wielding a weapon at work; hitting or trying to hit a worker; throwing an object at a worker; sexual violence against a worker; kicking an object the worker is standing on such as a ladder; or trying to run down a worker using a vehicle or equipment such as a forklift/backhoe.

What if a worker is accidentally pushed or hurt?

Accidental situations – such as a worker tripping over an object and pushing a co-worker as a result – are not meant to be included.

Does the person need to intend to hurt the worker?

For workplace violence to occur, a person must apply or attempt to apply physical force against a worker. However, he or she does not need to have the capacity to appreciate these actions could cause physical harm. For example, a person may have a medical condition that causes them to act out physically in response to a stimulus in their environment. This would still be considered workplace violence.

In addition, workplace violence would include situations where two non-workers, ratepayers for example, are fighting and a worker could be injured when he or she intervenes. The non-workers may not have intended their violence to spill over to anyone else, but they used physical force, which could ultimately cause physical injury to a worker.

Employers would be expected to take these situations into account when assessing the risks of workplace violence and when dealing with incidents. They would be required to establish measures and procedures to protect workers from this type of behaviour.

PROCEDURE:

1. The Employer Responsibilities include:

- a. Provide a safe, healthy, and bullying, harassment and violence-free work place;
- b. Dedicate sufficient attention, resources, and time to address factors that contribute to bullying and harassment and work place violence including but not limited to, bullying, teasing, abusive, and other aggressive behaviour, and to prevent and protect against it;
- c. Adopt a corporate standard and expectation for all employees of achieving workplace harmony through effective working relationships, communication and dialogue, building trusting relationships between employees and management;
- d. Communicate to employees information about factors contributing to work place violence;
- e. Assist employees who have been exposed to work place violence;

- f. Post this policy as mandated.;
- g. Ensure all employees are aware that the employer will investigate all complaints of bullying, harassment and/or violence and will seek resolution of complaints as soon as possible. As such, the employer encourages employees, where possible, to bring complaints of workplace health and safety to the attention of their immediate supervisor.

2. The Employee Rights include:

- a. If the employee is alleging that the employer or the supervisor is the alleged harasser, the employee has a legal right to report the incident to a person other than the employer or the supervisor. Depending on the circumstances of the incident or complaint, a workplace harassment investigation could be carried out by a number of individuals as noted: (Workplace Harassment, Ministry of Labour, Revised Sept. 13, 2016, section 3.3)
 - Someone in the workplace (such as a manager or a supervisor, or a member of the human resources department);
 - Someone in the organization (such as someone from another company location or from the corporate head office);
 - Someone associated with the workplace or organization (such as someone from another franchise or from a business association); or
 - Someone from outside the workplace or organization (such as a licensed private investigator, a human resource professional, or a lawyer).
- b. The employee may contact this person themselves without having to advise the employer that they are doing so (see Section 6 Notification and Investigation).
- c. In certain circumstances, a Ministry of Labour inspector may order the employer to have an investigation carried out by an “impartial person possessing such knowledge, experience, or qualifications as are specified by the inspector”. The inspector decides the criteria for knowledge, experience or qualifications to be set out in the order. The specific criteria would depend on the circumstances of each case, and could include:
 - knowledge of the workplace harassment and reprisal provisions under the OHS Act, and other applicable laws;
 - Experience in conducting workplace investigations, dealing with confidentiality and privacy in the context of those investigations, preparing comprehensive reports, and dealing with complex and/or sensitive situations.
- d. An “impartial person” would be someone who is unbiased, with no conflict of interest, and in good standing with their professional body (if applicable). While one may expect that an “impartial person” may be someone external to the workplace or organization, in some circumstances it could be someone in the organization.
- e. Where it would be more appropriate for a third party to investigate, the person could be someone who is:
 - a business leader in the community or a business association;
 - a certified human resource professional;
 - a lawyer; or
 - a licensed private investigator.

For further information see Ministry of Labour:

<https://www.labour.gov.on.ca/english/hs/pubs/wpvh/harassment.php>

3. Continuum of Inappropriate Behaviour

A continuum of inappropriate behaviours can occur at the workplace. This can range from offensive remarks to violence.

Workplace harassment may escalate over time into threats, or acts, of physical violence. In some cases, a targeted worker may react violently to prolonged harassment in the workplace.

The employer will recognize these behaviours and deal with them promptly because they could lead to workplace violence.

4. Assessing the Risks of Workplace Violence

At least annually, the employer, in consultation with the health and safety committee or representative, must assess the potential risk for workplace bullying and harassment and violence that may arise from the nature of the workplace, type of work or conditions of work.

Workplace Violence Assessment Tools:

The employer utilizes the tools that have been developed to help Ontario employers by the Public Services Health and Safety Association.

- a. General Physical Environment Assessment
 - Focused on the nature of the workplace, to survey the physical environment and security measures at the workplace
- b. Risk Factor Selection Tool
 - Used to identify risks specific to the workplace.
- c. Assessments for Specific Risks
 - Completes the assessment for any specific risk that exists in the workplace including: direct contact with clients; handling cash; working alone or in small numbers; working with unstable or volatile people; working in a community-based setting; mobile workplace; working in high crime areas; securing or protecting valuable goods; transporting people or goods.

This assessment includes taking into account the circumstances of the workplace and circumstances common to similar workplaces, as well as any other elements prescribed in regulation and, developing measures and procedures to control identified risks that are likely to expose a worker to physical injury.

5. Domestic Violence

A person who has a personal relationship with a worker – such as a spouse or former spouse, current or former intimate partner or a family member – may physically harm, or attempt or threaten to physically harm, that worker at work. In these situations, domestic violence is considered workplace violence.

If the employer becomes aware of domestic violence that would likely expose an employee(s) to a physical injury that may occur in the workplace, the employer will take every precaution reasonable in the circumstances for the protection of employees.

Defining Domestic Violence:

Domestic abuse, also known as spousal abuse, occurs when one person in an intimate relationship or marriage tries to dominate and control the other person. Domestic abuse that includes physical violence is called domestic violence.

Domestic violence is a pattern of intimidating tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the that partner.

The employer protects all employees and does not let personal biases stand in the way.

Signs and behaviour that are workplace-specific:

Signs and behaviour that are workplace-specific that might suggest an employee is a victim of domestic violence (Look for a pattern, rather than a single sign or symptom):

- Arriving to work late or very early
- Unplanned or increased use of Earned Time or Paid Time Off
- Decreased productivity
- Tension around receiving repeated personal phone calls
- Wearing long sleeves on a hot day or sunglasses inside
- Difficulty in making decisions alone
- Difficulty concentrating on tasks
- Avoiding windows, main entrance of office
- Repeated discussion of marital or relationship problems
- Flowers or gifts sent to employee at the workplace for no apparent reason
- Bruises, chronic headaches, abdominal pains, muscle aches
- Vague, non-specific medical complaints
- Sleeping or eating disorders
- Signs of fear, anxiety, depression

- Fatigue
- Intense startle reactions
- Suicidal or homicidal thoughts
- Nightmares or flashbacks

Signs of abusers in the workplace include:

- Employee shows attitude of domination and aggression toward domestic partner or co-worker
- Employee threatens domestic partner or children or discusses threats with co-workers
- Employee experiences outbursts of anger while talking with a domestic partner or co-worker on the telephone or in person at the workplace
- Spouse, partner or co-worker of employee appears to be afraid of employee and becomes submissive in the employee's presence
- Employee has been accused of or charged with abusing partner, child, or other household member

Management of Potentially Violent and Violent Situations:

Tips for verbal communication:

- Focus your attention on the other person to let them know you are interested in what they have to say.
- Do not glare or stare, which may be perceived as a challenge.
- Remain calm and try to calm the other person.
- Do not allow the other person's anger to become your anger.
- Remain conscious of how you are delivering your words.
- Speak slowly, quietly and confidently.
- Speak simply.
- Avoid communicating a lot of technical and complicated information when emotions are high.
- Listen carefully. Do not interrupt or offer unsolicited advice or criticism.
- Encourage the person to talk. Do not tell the person to relax or calm down.
- Remain open-minded and objective.
- Use silence as a calming tool.
- Acknowledge the person's feelings. Indicate that you can see he or she is upset.

Tips for non-verbal behaviour and communication:

- Use calm body language – relaxed posture with hands unclenched, attentive expression.
- Arrange yourself so that your exit is not blocked.
- Position yourself at a right angle rather than directly in front of the other person.
- Give the person enough physical space; 1–2 metres is considered an adequate distance.
- Get on the other person's physical level. If they are seated try kneeling or bending over, rather than standing over them. Do not pose a challenging stance, such as standing directly opposite someone; putting your hands on your hips; waving your arms; crossing your arms.
- Do not make sudden movements which can be seen as threatening.
- Do not fight. Walk or run away. Get assistance from security or police.

If the person has threatened violence or violence appears imminent or in progress, or if others present feel afraid for their safety, immediately contact the police. If you cannot do so safely, try to motion to someone else to get help.

If an employee has suffered an injury, apply first aid and call a medic or ambulance and, if necessary:

- Offer emotional support
- Advise the injured person to consult a health professional for treatment and counselling
- Debrief the employee on the incident, as appropriate

If possible, the employer or supervisor should make sure all victims and bystanders remain near the scene, their workstations or another safe place until an initial investigation takes place so they will be available for questioning.

Employers must take every reasonable precaution to protect employees.

6. Notification and Investigation

- a. The employer recognizes its legal responsibility to protect a worker from workplace harassment and/or violence.
- b. If the employer or any employee becomes aware of any allegations or incidents, work place bullying and harassment and/or violence or alleged work place bullying and harassment and/or violence, the employee shall notify the employer and the employer shall ensure an investigation is conducted.
- c. As noted in section 2 if the employee is alleging that the employer or the supervisor is the alleged harasser, the employee has a legal right to report the alleged incident to a person other than the employer or the supervisor. The employee will be advised of the process to be undertaken by the Investigator and the steps of this investigation shall be consistent with this policy and procedure and all legal requirements.
- d. Employees are requested to complete Part 1 - Reporting Form and to submit it to their immediate supervisor or the Clerk-Administrator if the complaint is against the immediate supervisor, unless the employee is reporting the alleged incident to another person as noted in c. above.
- e. The person(s) alleged to have bullied, harassed and/or committed violent act should be removed from the workplace immediately at the discretion of the employer, until the investigation is completed. Depending on the situation it may be practical to only separate the harasser from the work area of the harassed, until the investigation is completed.
- f. The employer appoints a competent person to investigate the matter and provides that person with any relevant information reasonably necessary to undertake such investigation. All incidents or complaints of workplace harassment shall be kept confidential except to the extent necessary to protect workers, to investigate the complaint or incident, to take corrective action or otherwise as required by law.
- g. Upon completion of the investigation the employer:
 - i. Completes Part 2- Supervisor Report;
 - ii. Keeps a record of the Report;
 - iii. Informs the complainant (the worker who has allegedly experienced workplace harassment), and the respondent (the alleged harasser), in writing, of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation;
 - iv. Adapts or implements controls to prevent a recurrence of the work place harassment or violence.

7. Training

The employer provides information, instruction, and training on the factors that contribute to workplace bullying and harassment and/or violence that are appropriate to the workplace of each employee exposed to workplace bullying and harassment and/or violence or a risk of workplace bullying and harassment and/or violence.

- a. Unless otherwise prescribed, the employer shall ensure that a health and safety representative receives training to enable him or her to effectively exercise the powers and perform the duties of a health and safety representative.
- b. The health and safety representative is deemed to be at work while he or she is receiving the training described above, and the employer shall pay the representative for the time spent, at the representative's regular or premium rate as may be proper.

The information, instruction, and training, includes the following:

- i. The nature and extent of workplace bullying and harassment and/or violence and how employees may be exposed to it;
- ii. The communication system established by the employer to inform employees about workplace violence;
- iii. Information on what constitutes workplace bullying and harassment and/or violence and on the means of identifying the factors that contribute to workplace bullying and harassment and/or violence;
- iv. The workplace violence prevention measures that have been developed; and
- v. The employer procedures for reporting on workplace bullying and harassment and/or violence or the risk of workplace bullying and harassment and/or violence.

8. Review

At least annually, the employer, in consultation with the health and safety committee or representative, reviews all measures, policies and procedures put in place to prevent, minimize, and/or control work place bullying and harassment and/or violence to ensure effectiveness or to adjust to any changes that would compromise the effectiveness of those measures, policies, and procedures.

9. Violations

Violations of this policy, procedure/program will result in disciplinary action, up to and including termination of employment.

Actions taken	
Please indicate concerns, issues and actions taken (e.g., contacted supervisor, police, emergency service personnel, etc.)	
Witness(es)	
Name	Contact information
1.	
2.	
3.	
4.	
Other Information	
Are you aware of any similar incidents in the past?	Yes No
If yes, provide details:	
Are you aware of any controls, measures or procedures to prevent a similar incident?	Yes No
Please provide any other information you think may be relevant, including any recommendations that you think would be helpful:	
Reporting	
Reported to Supervisor	Yes No
If yes, name of Supervisor	
Reported to police?	Yes No
If yes, police report number	
Reported to Other? (Specify)	Yes No
Signature of worker	

Part 2 - Supervisor Report (to be completed by Supervisor)	
Name	Department
Date reported	Date of investigation
Police contacted? Details:	Yes No
If yes, by whom?	
Health & Safety Representative contacted? If yes, by whom?	Yes No
Persons participating in investigation	
Description of findings (Identify immediate cause, underlying cause)	
Witnesses and statements	
Corrective action taken or recommendations for corrective action:	
Post-crisis Intervention	Yes No
Referral to employee assistance program or other community resource?	Yes No
Advised to consult a physician for treatment or referral?	Yes No
Follow-up	
Signature of Supervisor	

REPORTING PROCEDURES FOR WORKPLACE Bullying, Harassment, & Violence

Informal Reporting Procedure

(a) If you believe that you are being harassed, the first thing to do is to tell the person to stop. Do so as soon as you receive any unwelcome comments or conduct. Statements such as the following are examples of things to say to stop the behaviour:

“I don’t want you to do that.”

“Please stop doing or saying....”

“It makes me uncomfortable when you....”

- (b) If you believe that someone who is not an employee has harassed, discriminated, or threatened to commit a violent act against you (this may include domestic violence), immediately report the harassment to your supervisor.
- (c) Ensure the issue is documented and retain the documentation for your own records. However, failure to do so will not invalidate your claim.

Formal Reporting Procedure

- (a) If the complaint cannot be resolved informally or if it is too serious to handle on an informal basis, you may bring a formal complaint to your supervisor.
- (b) It is important to report your complaint as soon as possible so that the issue can be investigated to prevent escalation or reoccurrence.
- (c) If you are not comfortable reporting the incident to your supervisor or if the supervisor is the cause of the violence or harassment, you may report your complaint to another supervisor or a Health & Safety Representative.
- (d) Individuals initiating a formal complaint will need as much written information as possible; examples can be but aren’t limited to:
- the name(s) of the offending person(s)
 - the location, date and time of the incident
 - the name(s) of any possible witnesses
 - details of the offensive and unwelcome behaviour
- (e) A second supervisor may be invited to attend during the investigative interview.

Investigation Process

- (a) Upon receipt of a formal complaint, an investigation will commence.
- Please note that anonymous complaints will not be investigated unless there are extenuating circumstances.***
- (b) If deemed necessary/appropriate by the employer or the complainant, the police may be contacted to assist and/or conduct an investigation in situations where workplace violence has occurred.
- (c) Depending on the nature and the circumstances involved with the complaint, the employer may choose to conduct an internal investigation or use the services of a qualified external investigator.

- (d) The investigation may include but is not limited to:
- interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint;
 - obtain dates, times and locations of alleged complaint;
 - interview witnesses, if any;
 - review any related documentation; and,
 - compile detailed notes of the investigation and maintain them in a confidential manner.
- (e) Upon completion of the investigation, a detailed report of the findings will be prepared and forwarded to the employer (if an external investigator is used).
- (f) The employer will communicate the outcome of the investigation to the complainant and the respondent.
- (g) Employees affected by an incident will be encouraged to seek out independent counselling services if appropriate.

INVESTIGATION RESULTS AND CORRECTIVE ACTIONS

Substantiated Evidence Following Investigation

- (a) The employer will take appropriate corrective measures, regardless of the respondent's seniority or position.
- (b) The employer will determine what action should be taken as a result of the investigation.
- (c) If in the event the respondent is a Senior Manager or Councillor, the Council will determine what action should be taken as a result of the investigation.
- (d) Corrective measures may include but aren't limited to:
- Discipline, such as a verbal warning, written warning, suspension or termination
 - Referral for mandatory counselling (i.e. anger management or sensitivity training)
 - Reassignment
 - A demotion or denial of a promotion
 - Other disciplinary action deemed appropriate under the circumstances