



NATIONAL JUDICIAL INSTITUTE

PROTOCOL FOR PREVENTION OF HARASSMENT IN THE WORKPLACE

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1. Purpose

The purpose of the *Protocol on Prevention of Harassment in the Workplace* [the “Protocol”] is to provide guidelines regarding the expectations and requirements of employees or contributors concerning the prevention and resolution of harassment in the workplace and to provide direction for reporting, investigating and consequences of such behaviour in the workplace. This document is meant to be read in conjunction with the *Policy on Prevention of Harassment and Violence in the Workplace*.

2. Principles

2.1 The Institute is committed to providing a workplace free from harassment.

2.2 The Institute takes all complaints and reports of harassment in the workplace seriously by:

- defining individual rights and responsibilities for a workplace that is free from harassment;
- upholding its obligation of due diligence by taking reasonable measures to provide a workplace that is free of harassment;
- following the process without bias;
- investigating all complaints of harassment while maintaining an appropriate level of confidentiality;
- facilitating the reporting of harassment in the workplace;
- investigating and dealing with complaints of harassment in the workplace in a timely matter;
- documenting information gathered from the first disclosure to the final resolution of all reported harassment complaints and corrective actions.

2.3 There will be no negative repercussion or disciplinary action taken towards an individual who seeks assistance in a situation where they are being or believe they are being a victim of harassment in the workplace.

3. Rights

3.1 Everyone has the right to:

- an environment that is free from workplace harassment;
- file a complaint when the environment is not free from workplace harassment and a prompt investigation of the complaint without fear of embarrassment or reprisal;
- be informed of harassment complaints made against them;
- confidentiality to the degree possible under the circumstances; and

- if desired, seek guidance from a third party to provide support during the investigation (at their cost).

4. Obligation

4.1 All employees or collaborators must familiarize themselves with this Protocol upon taking up their position or being hired at the Institute.

5. Preventive Measures

5.1 Prevention is the first line of defence against occurrences of harassment in the workplace. Preventative measures undertaken by the Institute include, but are not limited to:

5.1.1 Policy and Protocol:

The Institute has developed a clear Policy and Protocol on the prevention of harassment in the workplace, for which employees and contributors will be familiarized with the measures and procedures contained upon hiring or engagement with the Institute.

5.1.2 Mutual Respect:

All employees and contributors need to be aware that interpersonal behaviours can dramatically affect the work environment and increase the possibility of harassment in the workplace. Relations among all those in the Institute, including clients, should include mutual respect and an awareness of the importance of human dignity.

5.1.3 Awareness:

The Institute will ensure that employees and contributors are made aware of this Policy and Protocols, and employees will be required to attend mandatory training.

6. Reporting Harassment in the Workplace

6.1 Individuals who believe they have been subjected to or have witnessed workplace harassment are encouraged, whenever possible, to attempt to resolve their concerns by communicating directly with the respondent to make it clear that such behaviour is unwelcome.

6.2 If an individual is unable or unwilling to confront the respondent or the concern is not resolved, the complainant and witnesses are to advise their Delegated Manager and Manager, HRWM, either verbally or in writing.

6.3 Any incident should be reported as soon as possible after experiencing or witnessing an incident so that the investigation may be conducted promptly.

7. Information Required

7.1 A report of the incident should include the following information (if applicable):

- a. The names(s) of the complainant(s) who was subject to the alleged harassment;
- b. The name(s) of the alleged respondent(s);
- c. The names of any witnesses or other individuals with relevant information to provide about the incident(s);
- d. Details of what happened, including date(s), frequency and location(s) of the alleged incident(s);
- e. Any supporting documents the complainant or witness may have in their possession that are relevant to the incident(s); and
- f. A list of any documents a complainant, witness, or other individual may have relevant to the incident(s).

8. Allegations Involving Certain Positions

8.1 Where allegations of harassment in the workplace involve the following positions, the business process will be as follows:

8.1.1 Allegation involving an employee or contributor of the HRWM department: If any of the parties to an allegation are employees of or collaborators to the HRWM department, the complainant or witness, at their option, can elect to report the incident to the Director of Operations instead of the Manager, HRWM.

8.1.2 Allegation involving a Delegated Manager: If any of the parties to an allegation is a Delegated Manager, the complainant or witness can elect to report the incident to the level above the respondent or the Manager, HRWM.

8.1.3 Allegation involving a member of the Senior Management Committee (SMC): If any of the parties to an allegation are members of the SMC, the complainant or witness can elect to report the incident to the CEO.

8.1.4 Allegation involving either the CEO or CJO: If any of the parties to an allegation is the CEO or CJO, the complainant or witness can elect to report the incident to the Director, Operations or the Chair of the Board Management Committee.

9. Admissibility Analysis

9.1 The Manager, HRWM, will proceed with an initial admissibility analysis of the complaint to evaluate the need to conduct an investigation.

10. Investigation Process

10.1 The Institute will ensure that an investigation appropriate to the circumstances will be conducted in case of a complaint of harassment in the workplace.

10.2 The investigation will be fair, respectful, and timely, and all relevant issues will be addressed.

11. Assignment of an Investigator

11.1 The CEO has the authority to order an investigation of the alleged incident by a trained investigator. This authority cannot be subdelegated.

11.2 Depending on the situation, the CEO could appoint:

- A representative of the HRWM department;
- A trained individual within the Institute; or
- An external investigator.

11.3 The Manager, HRWM is responsible for confirming that the internal investigator is appropriately trained and, in the case of external investigators, have appropriate credentials and experience.

12. Role of Investigator

12.1 The investigator is responsible for collecting and analyzing all facts, information and evidence relating to the alleged incident and submitting a fact-finding report within the context of the *Policy on Prevention of Harassment and Violence in the Workplace*.

13. Interviews

13.1 The investigator must ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The investigator should remind the parties and witnesses of this confidentiality obligation at the beginning of the investigation.

13.2 The investigator must interview the complainant and the respondent if the respondent is an employee or contributor of the Institute. If the respondent is not an employee or contributor of the Institute, the investigator should make all reasonable efforts to interview the respondent, if possible and appropriate, given the circumstances.

13.3 If the respondent is an employee or contributor of the Institute, they must be allowed to respond to the specific allegations raised by the complainant. If the respondent is not an employee or contributor of the Institute, the investigator should

enable the respondent to respond to the specific allegations raised by the complainant, if possible and appropriate, in the circumstances.

13.4 The investigator must interview any relevant witnesses employed by the Institute who may be identified by either the complainant, the respondent, or another individual, if necessary, to conduct a thorough investigation. The investigator must make reasonable efforts to interview any relevant witnesses the Institute does not employ when any are identified, if possible and appropriate in the circumstances.

13.5 The investigator must collect and review any relevant documents.

13.6 The investigator must take appropriate notes or statements during interviews with the complainant, the respondent, and witnesses.

14. Support Person

14.1 Union involvement: If an employee involved in the harassment complaint is an employee appointed to a represented position, the union representative will be notified of the investigation process.

14.2 If the complainant is an employee appointed to a represented position, they may ask their union representative to accompany them during the investigation, including interviews.

14.3 The complainant may rely on a “support person” to accompany them during the investigation, including interviews.

14.4 To ensure the investigation's integrity, the attendant should not be an individual who witnessed or was otherwise involved in the alleged incident.

14.5 When a support person is present, the HRWM Department will ensure that the *HRWM-0014E Non-Disclosure Agreement Form* is completed and signed by the support person prior to participating in any form of communication related to the investigation.

15. Time Limit

15.1 The Institute will make every effort to expedite an investigation. Some incidents may or may not require a complicated investigation.

15.2 Unless unusually complex, an investigation should be completed within ninety (90) calendar days.

16. Investigation Report

16.1 The investigator must prepare a written report summarizing the steps taken during the investigation; the report must include the following:

- summary and allegations of the harassment complaint;
- response from the respondent;
- any reply provided by the complainant;
- the evidence of any witnesses; and
- the evidence gathered, if applicable.

16.2 The report must set out findings of fact and conclude whether harassment in the workplace occurred or not.

16.3 The report is confidential and will be provided to the CEO or, if the CEO is the respondent, the Director, Operations or the Chair of the Board Management Committee.

17. Results of the Investigation

17.1 The CEO, the respondent's Director, and the Manager, HRWM will meet to discuss appropriate disposition based on the result of the investigation. If any of these individuals have been identified as the respondent, a replacement will participate in the meeting.

17.2 The complainant will be provided, in writing, the investigation results and, if applicable, any corrective action that has been or that will be taken resulting from the outcome of the investigation.

17.3 This result must also be provided to the respondent who works for the Institute and, where appropriate, to the respondent who does not work for the Institute.

17.4 Where harassment is found to have occurred, and the respondent works for the Institute, any remedial or disciplinary action will be indicated in the letter of result provided to them.

17.5 If the respondent is appointed to a represented position, a copy will be sent to the union representative, as per the *Disciplinary Policy*.

17.6 Where there is a reasonable cause to believe that a harassment complaint was made in bad faith, a new investigation will be launched and follow the process set out above as closely as possible.

18. Interim Measures

18.1 Upon receiving information concerning alleged harassment in the workplace, including during an investigation into alleged harassment, the CEO may take interim measures appropriate to the circumstances to protect a complainant from further harassment.

19. Corrective Action

19.1 Where a harassment complaint is found, corrective action may be taken. Refer to the *Disciplinary Policy* for additional information.

19.2 Where the respondent, who is found to have engaged in harassment in the workplace, is an employee of the Institute, the employee may be disciplined, including termination. Depending on the situation, the Institute may file a complaint to the police.

19.3 Where the respondent, who is found to have engaged in harassment in the workplace, is a consultant, the consultant may receive a written warning or, depending on the circumstances, have their contract revoked.

19.4 Where the respondent who is found to have engaged in harassment in the workplace is an individual external to the Institute (including faculty members, planners, visitors, or clients), appropriate corrective action may be taken, for example, modifying the delivery of services, such as using the telephone or email as the primary means of contact, or depending on the circumstances, a refusal of service.

19.5 Corrective actions could also be broader, especially where the investigation of a harassment complaint shows that harassment is prevalent or commonplace: as such, training for everyone in the workplace or everyone in a particular department on the prevention of harassment in the workplace.

19.6 If an incident or complaint investigation finds shortcomings in any HRWM policies, directives or other instruments, corrective action could include revising the instrument.

20. Alternative Dispute Resolution Measures

20.1 Workplace problem resolutions are critical to provide employees with a constructive outlet for their concerns to avoid any build-up of frustrations. Where a harassment complaint investigation is not conclusive but results from an interpersonal conflict, HRWM can arrange for mediation if appropriate.

21. Information Management

21.1 HRWM will keep records of any investigation, including:

- a copy of the harassment in the workplace complaint or details about the incident;
- a record of the investigation, including notes;
- a copy of the investigation report;
- a summary of the results of the investigation that was provided to the complainant and respondent; and
- a copy of any corrective action taken to address the complaint or incident of harassment in the workplace.

21.2 The HRWM department should maintain all documents on corrective action in the employee file. All documentation must be kept confidential.

21.3 All documentation shall be retained or destroyed per the *Information Management Retention and Disposition Guidelines (under review)*.

PROTOCOL AMENDMENTS

Date	Amendments	Approval
2024-11-12	<ul style="list-style-type: none">• Add section 9. Admissibility Analysis• Review Protocol to reflect changes to NJI Policy template and branding.	CEO