



Workplace Harassment Program

This program must be read in conjunction with the *Workplace Violence and Harassment Prevention Policy*.

1. Reporting Procedures

Workers who believe they have witnessed or experienced workplace harassment are strongly encouraged to report the incident. Any incident should be reported as soon as possible after experiencing or witnessing an incident so that the investigation may be conducted in a timely manner.

Reports of workplace harassment must be made to the Human Resources Manager. If the Human Resources Manager is involved in the incident, the incident must be reported to the Executive Director.

Supervisors are required to report incidents of workplace harassment to the Human Resources Manager. If the Human Resources Manager is involved in the incident, the incident must be reported to the Executive Director.

The Human Resources Manager must notify the Executive Director of the workplace harassment incident or complaint so that the Executive Director can ensure that an investigation is conducted which is appropriate in the circumstances.

If the Executive Director is involved in the incident of workplace harassment, the incident must be reported to the designated Board of Governors member, through either the Human Resources Manager or a member of Senior Management.

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

- a) The names(s) of the person(s) who was subject to the alleged harassment;
- b) The name(s) of the alleged harasser(s);
- c) The names of any witnesses or other persons 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 worker who reports the alleged harassment may have in their possession that are relevant to the incident(s); and
- f) A list of any documents a witness or other person or the alleged harasser may have in their possession that are relevant to the incident(s).

2. Investigation Process

The Institute will ensure that an investigation appropriate to the circumstances will be conducted into complaints or incidents of workplace harassment.

1. Assignment of Investigator

In some cases, a Human Resources representative will be the investigator. Depending upon the circumstances and in consultation with the Executive Director, an alternate competent person may be appointed as investigator. The Institute may appoint an external investigator if appropriate in the circumstances.

2. Role of Investigator

The investigator shall be responsible for the collection and analysis of all facts, information and evidence relating to the alleged incident and for making a finding, within the context of the *Workplace Violence and Harassment Prevention Policy*, provisions of the *Occupational Health and Safety Act* and, if applicable, the *Ontario Human Rights Code*.

3. Investigation Process

The investigation will be fair, respectful, timely and address all relevant issues. The investigation will be appropriate to the circumstances.

Some matters will not require a complicated investigation. Other matters may be more complex and require a more extensive investigation. Unless unusually complex, an investigation should be completed within 90 days.

The worker who allegedly experienced workplace harassment may rely on a support person during the investigation, including interviews. In order to ensure the integrity of the investigation, the support person should not be a person who witnessed, or was otherwise involved in, the alleged incident.

Any investigation will adhere to the following:

- a) 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.
- b) The investigator must interview the worker who allegedly experienced the workplace harassment and the alleged harasser, if the alleged harasser is a worker of the employer. If the alleged harasser is not a worker of the employer, the investigator should make reasonable efforts to interview the alleged harasser, if possible and appropriate.
- c) If the alleged harasser is a worker of the employer, he or she must be given the opportunity to respond to the specific allegations raised by the worker. If the alleged harasser is not a worker of the employer, the investigator should give the alleged harasser the opportunity to respond to the specific allegations raised by the worker, if possible and appropriate. In some circumstances, the worker who allegedly experienced the workplace harassment should be given a reasonable opportunity to reply.
- d) The investigator must interview any relevant witnesses employed by the employer who may be identified by either the worker who allegedly experienced the workplace harassment, the alleged harasser 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, if possible and appropriate.
- e) The investigator must collect and review any relevant documents.
- f) The investigator must take appropriate notes or statements during interviews with the worker who allegedly experienced workplace harassment, the alleged harasser and any witnesses.
- g) The investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the worker who allegedly experienced the workplace harassment, the response from the alleged harasser, any reply provided by the worker who allegedly experienced the workplace harassment, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether workplace harassment was found or not.
- h) The report is confidential and will be provided to the Executive Director or, if the Executive Director is the alleged harasser, to the designated Board of Governors member.

4. Results of the Investigation

After concluding the investigation:

- a) The Executive Director (or, if the Executive Director is the person who allegedly engaged in workplace harassment, the designated Board of Governors member), the Human Resources Manager (unless the Human Resources representative is the person who allegedly engaged in workplace harassment), and appropriate Senior Management Director (unless the Director is the person who allegedly engaged in workplace harassment) shall meet to discuss appropriate disposition where a finding of workplace harassment has been made.
- b) The worker who allegedly experienced the workplace harassment will be informed in writing about the results of a workplace harassment investigation and of any corrective action that has been or that will be taken as a result of the investigation.
- c) This information must also be provided to an alleged harasser who works for the Institute and, where appropriate, to an alleged harasser who does not work for the Institute.
- d) Where harassment is found to have occurred and the alleged harasser works for the Institute, any remedial or disciplinary action shall be recorded in the worker's personnel file and form part of their employment record; and
- e) Where there is reasonable cause to believe that a complaint was made in bad faith, an investigation will be commenced following an investigative process which follows as closely as possible the process set out above.

3. Handling Complaints

Upon receiving information concerning alleged harassment, including during an investigation into alleged harassment, the Executive Director may take interim measures, appropriate to the circumstances, to protect a worker from further alleged harassment.

Corrective actions are actions taken to try to prevent a reoccurrence of workplace harassment.

Where harassment by a worker or supervisor is found to have occurred, corrective action may be taken. Corrective action in respect of the worker or supervisor who is found to have committed harassment could include, for example, requiring an apology, education or counselling. The harasser may be disciplined, up to and including termination.

Where harassment by a person external to the Institute (including program faculty and planners, visitors, domestic or intimate partners, and clients) is found to have occurred, appropriate corrective action may be taken. This could include, 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.

Corrective actions could also be broader, especially where the investigation of an incident or complaint shows that workplace harassment is prevalent or commonplace. An example would be training for everyone in the workplace or for everyone in a particular department on workplace harassment, causes and solutions.

If the investigation of an incident or complaint finds that there were shortcomings in the workplace harassment policy or program, corrective action could include revising the policy or program.

The *Workplace Violence and Harassment Prevention Policy* and the *Occupational Health and Safety Act* prohibits reprisals against individuals acting in good faith who report incidents of workplace violence or harassment or act as witnesses. A “reprisal” is defined as any act of retaliation, either direct or indirect.

4. Confidentiality

Information about complaints and incidents shall be kept confidential to the fullest 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 workers, to investigate the complaint or incident, to take corrective action, or otherwise as required by law.

While the investigation is ongoing, the worker who has allegedly experienced harassment, the alleged harasser(s) and any witnesses shall not discuss the incident or complaint or the investigation with each other or other workers or witnesses.

For greater clarity, this program does not limit a worker’s right to report harassment to the police, to pursue other legal remedies available to the worker, or to seek legal or other professional advice.

5. Record keeping

Human Resources will keep records of any 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;
4. a summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace harassment and the alleged harasser, if a worker of the employer;
5. a copy of any corrective action taken to address the complaint or incident of workplace harassment.

Records of the incident and investigation will be kept for 10 years following the conclusion of the investigation. For greater clarity, corrective action taken regarding a worker remains a permanent part of the worker's record of employment.

6. Conclusion

The National Judicial Institute is proud of its climate of respect and professionalism, and remains committed to ensuring a work environment where all are treated with respect and dignity. All concerns will be addressed in a fair, respectful and timely manner as outlined in this program.

The policy, program and all of its components will be reviewed annually. Workers with questions, feedback or suggestions are invited to speak with the Human Resources representative or a member of the Joint Health and Safety Committee.

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