



POLICY ON PREVENTION OF HARASSMENT AND VIOLENCE IN THE WORKPLACE

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1. Effective Date

1.1 The *Policy on Prevention of Harassment and Violence in the Workplace* [the “Policy”] was approved by the Chief Executive Officer (CEO) and takes effect on January 24, 2022.

1.2 It replaces relevant Human Resources policies in the NJI Policy Handbook dated January 24, 2018.

1.3 This Policy will be reviewed and updated annually by the Joint Health and Safety committee (JHSC).

2. Purpose

2.1 The purpose of the Policy is to provide an integrated healthy, safe, and respectful workplace that is free from all forms of harassment or violence by:

- defining what constitutes and what does not constitute harassment in the workplace; and
- developing and maintaining Protocols that provide direction for reporting and investigating harassment and violence in the workplace.

3. Expected Results

3.1 The expected results of the Policy are met by:

- committing that harassment and violence is not tolerated in the workplace;
- preserving and fostering for the Employees and Staff members a productive and respectful working environment based on mutual respect;
- putting any necessary mechanisms in place to prevent harassment or violence in the workplace;
- addressing promptly with sensitivity, fairness, and an emphasis on informal early resolution any complaint of harassment or violence in the workplace occurrences; and
- building trust with Employees and Staff members that harassment and violence in the workplace are prevented and resolved.

4. Application

4.1 This Policy applies to all NJI Employees and Staff. Staff members includes contractors, non-judicial faculty, volunteers, and students of the Institute who are either working at an NJI office or attending in-person NJI conferences / programs or meetings at a location inside or outside of the NJI offices.

5. Authorities

5.1 Consistent with NJI General Operating By-law No. 1, the Chief Executive Officer (CEO) shall supervise the day-to-day operations and the administration of the Institute.

5.2 As such, the CEO has the authority to approve and amend the *Policy on Prevention of Harassment and Violence in the Workplace* and may, as appropriate, consult with the Board Management Committee and/or obtain approval from the Board Management Committee. This authority cannot be sub-delegated.

5.3 This Policy is to be read in conjunction with the appropriate Human Resources Workplace Management (HRWM) instruments, such as the following:

- *Human Resources Workplace Management (HWRM) Policy Development Framework;*
- *Instrument of Delegation of Human Resources & Workplace Management Authorities*
- *Employment Policy for Executives*
- *Employment Policy for Department Managers/Managers*
- *Employment Policy for Excluded Employees*
- *Policy on Occupational Health and Safety*
- *Policy on Prevention of Harassment and Violence in the Workplace*
- *Protocol for Prevention of Harassment in the Workplace*
- *Protocol for Prevention of Violence in the Workplace*
- *Policy on Equity, Diversity, and Inclusion in the Workplace*
- *Terms of Reference of Joint Health and Safety Committee (JHSC) (under review)*

- *Discipline Policy*
- *Grievance process guide*
- *Employee and Family Assistance Program (EFAP)*
- *Directive on Time off with pay, Leave with Pay and Leave Without Pay (under approval)*
- *EARS Program*
- *Insurance Policy - Guardsman*
- *Information Management Retention Guidelines (under development)*
- *Collective Agreement*

6. Roles and Responsibilities

6.1 Senior Management Committee (SMC)

The SMC provides a forum for consultation, discussion, exchange of information, and advice in decision-making related to Institute-wide functions, practices, and processes including human resource management, workplace health and safety, finance, communications, education programming, strategic planning and reporting and to resolve issues collaboratively.

6.2 Joint Health and Safety Committee (JHSC)

The primary purpose and mission of the JHSC is to monitor, assist and support the Internal Responsibility System (IRS).

The JHSC is responsible for:

- reviewing the *Policy on Occupational Health and Safety* and the *Policy on Prevention of Harassment and Violence in the Workplace* and supporting Protocols at the beginning of each year;
- reviewing any related instruments on an annual basis;
- supplying an effective strategy to manage the occupational health and safety concerns of the Institute;
- ensuring that workplace health and safety, hazard identification and workplace risk assessment inspections are conducted;
- receiving and reviewing any injury or incident forms, inspection and health and safety audit reports, and the [Workplace Violence Risk Assessment Report](#);

- participating in the investigation of critical injuries and in the investigation of reported incidents that result in personal injury or have the potential to result in injury;
- making recommendations as necessary;
- accompanying a Ministry of Labour inspector on investigations and inspections of the workplace;
- presenting an annual report on the Institute's Health and Safety status to the Senior Management Committee (SMC); and
- maintaining confidentiality except where disclosure of information is required by law.

6.3 Employee and Family Assistance Program (EFAP)

The EFAP is a professional, confidential, and proactive service to support the Employees and their families with a wide range of personal, family, and work-related concerns. One-on-one support is available and should be encouraged as a first line of support and intervention when an employee or their spouse or dependent is showing signs of distress.

6.4 Human Resources and Workplace Management (HRWM) Department

The HRWM department supports the CEO, the Director of Operations, and the Delegated Managers by:

- posting a copy of this Policy in a conspicuous place in the workplace;
- acting as co-chair of the JHSC;
- ensuring that any mandatory training and refresher mandatory training are taken by all Employees on appointment and every two years;
- providing appropriate assistance to any complainant or witness;
- providing policy interpretation, guidance to Delegated Managers;
- ensuring that documentation is gathered and maintained in the Employee file or other appropriate file; and
- retaining and disposing of all documents per the *Information Management Retention Guidelines (under development)*.

6.5 Finance Department

The Finance department provides financial strategic advice and administrates contracting services. As such, the Director, Finance is responsible for:

- ensuring that the Contractors are notified of this Policy and supporting Protocols;

6.6 Delegated Managers

Delegated Managers are responsible for:

- adhering to the *Policy on Prevention of Harassment and Violence in the Workplace* and supporting tools;
- ensuring that their Employees have access to this Policy and supporting tools;
- respecting their sub delegation according to the *Instrument of Delegation of Human Resources and Workplace Management Authorities*;
- providing Employees with information on this Policy;
- referring Employees to EFAP, when necessary;
- participating in relevant information sessions and/or mandatory training;
- ensuring that their Employees participate in any relevant information sessions and/or mandatory training;
- ensuring that appropriate documented authorities are provided to the HRWM department in a timely manner;
- contributing to a positive work environment by identifying, discouraging, and, reporting comments or activities that are contrary to the Policy.

6.7 Employees

Employees are responsible for:

- adhering to *Policy on Prevention of Harassment and Violence in the Workplace and supporting tools*, and complying with them;
- participating in any relevant information sessions and mandatory training; and

- contributing to a positive work environment by identifying, discouraging, and, reporting comments or activities that are contrary to this Policy.

6.8 Staff

Staff members are responsible for:

- familiarizing themselves with the contents of this Policy and supporting Protocols, and in complying with them; and
- contributing to a positive work environment by identifying, discouraging, and reporting comments or activities that are contrary to this Policy and Protocols.

7. References

- National Judicial Institute General Operating By-law No.1
- [*Occupational Health and Safety \(OHS\) Act*](#)
- [*Act Respecting Labour Standards \(QC\)*](#)
- [*Ontario Human Rights Code*](#)
- [*Charter of Human Rights and Freedoms \(QC\)*](#)
- [*Canadian Human Rights Act;*](#)
- [*Criminal Code \(Canada\)*](#)

8. Enquiries

Delegated Managers: Please direct enquiries to your Human Resources and Workplace Management (HRWM) department.

Employees: Please direct enquiries to your Delegated Manager.

Staff: Please direct enquiries to your Contracting Manager.

Appendix A – Definitions

Abuse of power: occurs when an individual abuses or misuses their power and discretion for personal benefit, or for the benefit of another individual.

Bullying: is offensive, cruel, intimidating, or humiliating behaviour, whether intended or not, potentially including the abuse of power. Bullying behaviour, whether physical or verbal, direct or indirect, undermines the individual's right to dignity.

Complainant: refers to the individual who experiences an alleged act of workplace harassment or violence and then registers the official complaint against the person (respondent) who allegedly committed the act of harassment or violence.

Corrective actions: Corrective actions are actions taken to prevent a reoccurrence of harassment or violence in the workplace.

Incivility: refers to problematic behaviours and does not meet the definition of harassment. It falls under performance management or problem resolution and may include one-time nonverbal innuendo (raising of eyebrows, making faces), a minor verbal affront such as a snide remark, lack of openness, abrupt responses, undermining, etc.

Perpetrator: the individual who utters the threat of violence or commits an act of violence at the workplace.

Reprisal: any act of retaliation, either direct or indirect.

Respondent: the individual accused of committing an act of workplace harassment or workplace violence by a complainant or a witness.

Staff: includes contractors, non-judicial faculty, volunteers, and students of the Institute who are either working at an NJI offices or attending in-person NJI conferences / programs or meetings at a location inside or outside of the NJI offices.

Supervisor: An employee who has the responsibility for day-to-day supervision of other employees, e.g., assign work, set priorities, assess performance, and approve or recommend approval of leave.

Vexatious comment or conduct: the intentional act of purely attempting to cause annoyance, frustration, or embarrassment to another individual, without grounds.

Witness: refers to an individual who either witnesses or is made aware of an alleged act of workplace harassment or workplace violence.

Workplace: for the purpose of the *Policy on Prevention of Harassment and Violence in the Workplace* and its related Protocols, includes any location in which Employees and Staff are engaged in Institute business activities necessary to perform their duties. This includes, but is not limited to, Institute buildings, Institute parking lots, Institute organized social events, field locations and off-site business-related functions including travel.

Appendix B – Prevention of Harassment and Violence in the Workplace

B.1 Principle

1.1 The Institute is committed to providing a work environment that is free from harassment and to preventing incidents of violence in the workplace by assessing the risk of workplace violence and by developing and maintaining a Policy and Protocols. The Institute is proud of its climate of respect and professionalism and remains committed to ensuring the safety of our Employees and Staff.

1.2 All incidents and alleged incidents of harassment or violence in the workplace, regardless of magnitude or who it may involve, will be treated seriously, and must be reported immediately to the Delegated Manager, and when required, to the police. All concerns will be addressed in a fair, respectful, and timely manner.

1.3 In pursuit of this goal, the Institute does not condone and will not tolerate acts of harassment or violence by any individual in the workplace.

1.4 All Employees and Staff are reminded of their obligation to uphold the NJI's fundamental principles, to treat others with mutual respect, and to adhere to the human resources policies and instruments aimed at promoting a positive work environment for all individuals and the higher level of care for our clients.

1.4.1 As such, as part of their Employment Agreement Contract, the Employee is notified that the Institute is committed to a workplace free from violence and harassment and a copy of this Policy and Protocols are available on the NJI website.

1.4.2 As part of their Independent Contractor Agreement, the Contractor is notified that the Institute is committed to a workplace free from harassment and violence and a copy of this Policy is available on the NJI website.

1.4.3 As part of their course materials, clients, program faculty, and planners are notified that the Institute is committed to a workplace free from harassment and violence and a copy of this Policy is available on the NJI website.

1.5 This Policy and Protocols do not limit the right of an Employee or Staff member to report harassment or violence in the workplace to the police, to pursue other legal remedies available to the Employee or Staff member, or to seek legal or other professional advice.

B.2 Proof of Compliance

2.1 Newly-appointed Employees acknowledge by signing and dating the [HR-0026E – Policy Acknowledgement and Acceptance Form](#) that they have read and accept to adhere to the National Judicial Institute’s policies.

2.1 As part of the staff, Contractors acknowledge by signing and dating the [NJI-0003E WM Policy Acknowledgement and Acceptance form](#), that they have read and agree to adhere to the *Policy on Prevention of Harassment and Violence in the Workplace* and the *Protocol for Prevention of Harassment in the Workplace* and the *Protocol for Prevention of Violence in the Workplace*.

B.3 Mandatory Training

3.1 Employees must complete the following mandatory course in the first two (2) weeks of their start date at the Institute:

- Workplace Violence and Harassment Prevention

3.2 Every two (2) years, all Employees and Supervisors must complete on-line training as a refresher.

B.4 Definition of Harassment in the workplace

4.1 Harassment in the workplace is defined as:

- (a) engaging in a course of vexatious comment(s) or conduct against an Employee or Staff in the workplace that is known or ought reasonably to be known to be unwelcome, or
- (b) workplace sexual harassment.

Per the *Occupational Health and Safety (OHS) Act*, sexual harassment in the workplace is defined as:

- (a) 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
- (b) 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.

4.2 Harassment may also be considered a form of discrimination under the *Ontario Human Rights Code* when it is tied to one or more of the prohibited grounds (race,

ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability).

4.3 A workplace harassment is not a reasonable action taken by the Institute or a Delegated Manager or supervisor relating to the management and direction of Employees or the workplace. Workplace harassment does not include legitimate business decisions or actions relating to the Employee's employment, including a legitimate decision to change the work to be performed or the working conditions, monitor and manage performance, impose discipline, or terminate employment.

B.5 Definition of Violence in the Workplace

5.1 A violence in the workplace means:

- (a) The exercise of physical force by an individual against an Employee or Staff member, in a workplace, that causes or could cause physical injury to the Employee or Staff member;
- (b) An attempt to exercise physical force against an Employee or Staff member, in the workplace, that could cause physical injury to the Employee or Staff member; and
- (c) A statement or behaviour that it is reasonable for an Employee or Staff member to interpret as a threat to exercise physical force against the Employee or Staff member, in the workplace, that could cause physical injury to the Employee or Staff member.

B.6 Violence in the Workplace

6.1 If an individual feels threatened by violence in the workplace, they should immediately call 911. Canada's Criminal Code addresses violent acts, threats, and behaviours, such as stalking.

6.2 The police must be contacted immediately when an act of violence has occurred in the workplace or when someone in the workplace is threatened with violence.

B.7 Reporting Harassment or Violence in the Workplace

7.1 Employees or Staff members who believe they have witnessed or experienced harassment in the workplace are required to report the incident, as outlined in the [Protocol for Prevention of Harassment in the Workplace](#).

7.2 Employees or Staff who believe they have witnessed or perceived violence in the workplace are strongly encouraged to report the incident as outlined in the [Protocol for Prevention of Violence in the Workplace](#).

7.3 Delegated Managers are required to report any incident or allegation of harassment or violence in the workplace that comes to their attention.

7.4 If an Employee or Staff member is protected by a court order (e.g. a peace bond or “no-contact” order) from another individual, the Employee or Staff member is encouraged to notify and to supply a copy of that bond or order to the Manager, HRWM, so that the Institute may take reasonable steps to protect the Employee, Staff member and workplace. Such information will be kept confidential in accordance with the law.

7.5 Any Employee or Staff member who is a victim or has knowledge of domestic violence and believes that such violence may occur in the workplace are required to inform the Manager, HRWM to ensure that the Institute take all reasonable precautions to ensure both their safety as well as the safety of other Employees and Staff.

7.6 This Policy and the *Occupational Health and Safety Act* prohibits reprisals against individuals acting in good faith who report incidents of harassment or violence act in the workplace as witnesses.

B.8 Weapons

8.1 Weapons are strictly prohibited from the Institute’s workplace. If any individual is seen with a weapon or is known to possess one in the workplace, Employees or Staff are required to immediately contact 911, following which they must notify their Delegated Manager and the HRWM department.

B.9 Fraudulent or Malicious Complaints

9.1 This Policy must never be used to bring fraudulent or malicious complaints.

9.2 Intentionally accusations or knowingly made false statements regarding an allegation of harassment or violence in the workplace is a serious offense and is subject to disciplinary action.

9.3 The Institute reserves the right to discipline those whose reports or complaints are frivolous or vexatious. Any interference with the conduct of an investigation, or retaliation against a complainant, respondent, or witness, may itself result in disciplinary action.

B.10 Breach of Policy

10.1 Harassment and Violence in the workplace is a serious offense. If a report or complaint of workplace harassment or act or threat of violence is substantiated, the respondent will be subject to immediate disciplinary action, up to and including termination of employment or engagement with the Institute.

10.2 The criteria in determining the level of disciplinary action will be based on fact, and will take into account harm to the Employee, harm to the Institute and its reputation, and whether or not there was an unequal power relationship.

B.11 Confidentiality

11.1 Information about complaints and/or about fact-finding reports of perceive risks of violence and incidents shall be kept confidential to the fullest extent possible.

Information about any individuals involved, will not be disclosed unless disclosure is necessary to protect Employees, to investigate the complaint or incident, to take corrective action, or otherwise as required by law.

11.2 While the investigation is ongoing, the complainant, the respondent and any witnesses shall not discuss the incident or complaint or the investigation with each other or other Employees or witnesses.

POLICY AMENDMENTS

Date	Amendments	Approval