



POLICY ON WORKPLACE HARASSMENT AND VIOLENCE – 2019

Workplace Harassment and Discrimination

FilmPEI (the “Organization”) upholds the right of every person to be free from harassment and discrimination of any kind including sexual harassment, bullying and discriminatory harassment in the workplace, and every worker is assured of the protection of this right.

Workers are entitled to be treated with dignity and respect and to have a work environment free from harassment and discrimination, as prescribed by the Province of Prince Edward Island’s occupational health and safety and/or human rights legislation ([PEI Human Rights Act](#)). This policy applies to all workers and representatives of the Organization while in the workplace, on Organization premises, or during any work-related and/or social functions.

Workers are expected to assist the Organization in its attempts to prevent and eliminate harassment in the workplace. The Organization will treat any form of harassment that occurs in the workplace seriously irrespective of the alleged harasser’s position within the Organization. Nothing in this policy prevents an individual’s right to file a complaint with the PEI Employment Standards Board should they feel the situation warrants such action.

Definition

Workplace harassment is defined as “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.”

The definition of workplace harassment includes “workplace sexual harassment”. According to PEI’s employment Standards Act, sexual harassment means “any conduct, comment, gesture or contact of a sexual nature (a) that is likely to cause offence or humiliation to any employee; or (b) that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.”

More broadly, “sexual harassment” is defined as 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 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. Workplace bullying can be considered a type of workplace harassment. Discrimination is not captured within the definition of workplace harassment.

However, if harassing behaviour is occurring based on discrimination, this constitutes discriminatory harassment. Workplace violence is not captured within the definition of workplace harassment.

Behaviours Constituting Harassment

While the following is not an exhaustive list, harassment may include:

- verbal abuse or threats;
- unwelcome remarks, jokes, innuendoes or taunting for any reason, including about a person's body, attire, age, marital or family status, ethnic or place of origin, religion, race, sexual orientation, gender identity or gender expression, disability, ancestry, colour, citizenship, creed, sex, record of offences, etc.;
- practical or "dirty" jokes which cause awkwardness or embarrassment;
- stalking, leering, staring or gestures;
- display of pornographic, racist or other offensive or derogatory pictures or other material; condescension, intimidation or paternalism which undermines self-respect;
- unwelcome or unwanted sexual advances, including but not limited to patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any other similar physical contact or written solicitation normally considered unacceptable by another individual; requests or demands for sexual favours; and/or,
- physical and sexual assault.

While the following is not an exhaustive list, sexual harassment may include:

- differential treatment of workers or co-workers etc.;
- verbal or written comments, jokes, teasing, and/or other communication of a sexual nature;
- demeaning language based on gender or sexual preference;
- graphic comments about an individual's body;
- use of sexually degrading words to describe an individual;
- display of sexually suggestive objects and/or pictures in the workplace;
- foul or obscene language and/or gestures;
- unwanted physical conduct such as patting, pinching, and/or brushing up against another person's body;
- a promise of better treatment in return for sexual favours; and/or
- indirect or expressed threats for refusal of a sexual request.

Courteous, mutually respectful, non-coercive interactions which are acceptable to both parties are not considered to be harassment or sexual harassment. The Organization will not tolerate or condone sexual harassment of its workers by anyone.

This policy is not intended to limit or constrain the reasonable exercise of management functions in the workplace. Reasonable action or conduct by a member of management that is part of his or her normal work function would not normally be considered workplace harassment or sexual harassment. Examples could include changes in work assignments, scheduling, job assessment and evaluation, implementation of dress codes and progressive discipline.

Poisoned Work Environment

A poisoned work environment is created by persistent and serious wrongful comments or conduct that creates a hostile or intolerable workplace. The comments or conduct need not be directed at a specific individual, and may be from any individual, regardless of position or status. A single comment or action, if sufficiently serious, may create a poisoned environment. Conduct that creates or contributes to the creation of a poisoned work environment will not be tolerated at the Organization and workers found to have engaged in such acts will be subject to discipline up to and including termination.

Responsibilities of Management

The Organization will:

- promote a workplace that is free of harassment and sexual harassment;
- develop and maintain a written workplace policy and program with respect to workplace harassment and sexual harassment in compliance with the Employment Standards Act;
- provide workers with information and instruction regarding the workplace policy and program with respect to workplace harassment and sexual harassment including appropriate steps to be taken and investigation procedures;
- take every reasonable precaution for the protection of the workers;
- ensure workers understand who to contact regarding concerns about the policy or when to report an incident;
- ensure the workplace is free from discrimination and harassment including, sexual harassment, bullying and discriminatory harassment;
- respond appropriately to complaints brought to their attention;
- respect the confidentiality and sensitivity of such issues to the extent possible;
- document all information and investigation results;
- conduct an investigation into allegations of harassment or sexual harassment; and,
- take action if witnessing harassment or sexual harassment or elements of a poisoned work environment.

Responsibilities of workers

Workers must:

- comply with this policy by avoiding any behaviour or conduct that could reasonably be interpreted as a violation of this policy;
- report any instances of discrimination, harassment or sexual harassment; and

- maintain a work environment free from discrimination and harassment including sexual harassment, bullying and discriminatory harassment.

Procedure for Making a Harassment-Related or Sexual Harassment-Related Complaint

The Organization will investigate and act expeditiously and firmly in dealing with persons harassing others. Complaints regarding harassment may be directed to the EXECUTIVE DIRECTOR in writing if possible either by email at director@filmpei.com or by mail at 57 Watts Avenue Charlottetown PEI C1E 2B7 or to the FILMPEI PRESIDENT OF THE BOARD OF DIRECTORS at board@filmpei.com.

If a worker believes that he or she is being harassed, the worker should take one or both of the following steps:

1. If comfortable doing so, the worker should tell the harasser to stop. The worker should firmly state that the behaviour is objectionable, unwelcome, and must stop immediately. The worker should also keep a written record of the incident, along with the steps taken to stop it. If the activity or behaviour does not stop after the person has been confronted, or if the worker does not feel comfortable confronting the person, then the worker should follow the procedure as outlined in step 2.
2. The worker should discuss the incident with the EXECUTIVE DIRECTOR or, where the alleged harasser or sexual harasser is the EXECUTIVE DIRECTOR, the worker should discuss the incident with FILMPEI PRESIDENT OF THE BOARD OF DIRECTORS. During this initial meeting, the worker should complete a written complaint with or without the assistance of the person receiving the complaint.

Investigation Process

The Organization will ensure a full, fair, and appropriate investigation is conducted into each incident or allegation of discrimination or harassment that it becomes aware of. Investigations will be carried out according to the following guidelines:

- all investigations will be conducted promptly;
- all those directly involved, and witnesses will be spoken with;
- notes/statements will be prepared during each interview, reviewed by the person(s) being interviewed and signed for accuracy;
- records or other documents relevant to the incident being investigated (this may include work schedules, complaints and observation notes, and may involve taking pictures of the scene) will be reviewed;
- relevant employment agreement language and/or Organization policies/procedures will be reviewed;
- a final summary/report of the investigation will be prepared; and,
- the allegedly and/or actually harassed worker and the alleged and/or actual harasser will be informed separately in writing of the results of the investigation and any corrective action taken as a result of the findings of the investigation.

The Organization will investigate the complaint diligently and confidentially to the maximum extent possible. In addition, any negative employment consequences which are found to have resulted from the harassment or sexual harassment will be rectified as much as and as soon as possible.

Progressive Discipline

Any worker found to have engaged in conduct that violates this policy will be subject to progressive discipline, up to and including termination of employment or contract. Because allegations of harassment are very serious, frivolous complaints found to have been made for improper purposes will result in progressive discipline of the complainant, up to and including termination of employment or contract.

If any worker receives a complaint of harassment or is otherwise aware of, or informed of a harassing situation, he or she must inform the the EXECUTIVE DIRECTOR or FILMPEI PRESIDENT OF THE BOARD OF DIRECTORS immediately.

Confidentiality

Workers should feel secure in knowing that their concerns will be handled as discreetly and sensitively as possible. Identifying information about any individuals involved in the harassment allegation 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 as otherwise required by law.

Reprisals

This policy strictly prohibits reprisals against a worker because they have brought forward a concern or has provided information regarding a concern under this policy. Any worker who commits or threatens reprisal against another worker for following this policy in good faith may be subject to progressive discipline, up to and including termination of employment or contract.

Workers are encouraged to assist the Organization in its efforts to prevent and eliminate harassment and sexual harassment in the workplace by treating their co-workers with courtesy and respect at all times during their employment. The Organization, in turn, will do its best to deal with complaints that may arise in a fair and objective manner. Any breach of this policy will result in progressive discipline up to and including termination of employment.

Workplace Violence

The health and safety of our workers is critical. Priority is given to protecting our workers and our audiences/volunteers from violence and/or intimidating behaviours. Such conduct interferes with everyone's ability to perform their job and is not in keeping with the Organization's philosophy of trust and mutual respect.

The Organization's workers are entitled to have a work environment free from violence and intimidating behaviours as prescribed by the Employment Standards Act. This policy applies to all workers and representatives of our Organization while in the workplace, on Organization premises, and during any other work-related or work-related social functions.

Workers are expected to assist the Organization in its attempts to prevent and eliminate violence in the workplace. The Organization will react seriously and severely to any form of violence that occurs in the workplace, irrespective of the alleged offender's position within the Organization.

Nothing in this policy prevents an individual's right to file a complaint with the PEI Employment Standards Board should they feel the situation warrants such action.

Definition

"Workplace violence" is defined as:

- the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; and
- a statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Forms of Workplace Violence

- Violence by Strangers (e.g., gala attendees, the public, etc.)
 - Usually enters the place of work on the pretense of being a guest.
 - Commits robbery or another violent act.
- Violence by Guests (e.g., a donor, a friend or family member of a worker, etc.)
 - May be an expected or unexpected situation.
- Violence by Co-workers
 - Could include current worker and Manager, former worker and Manager, a prospective worker, and may occur at or outside of work (e.g., at an after-work social event, an awards gala, a retreat, etc.)
- Domestic Violence
 - Occurs when a worker has a personal dispute with a spouse, partner, relative or friend and the spouse, partner, relative or friend comes to the Organization to harass, threaten, injure or kill the worker.

Behaviours Constituting Workplace Violence

While not an exhaustive list, workplace violence may include the following acts:

- harming, bullying or threatening to harm any worker or member of the public (e.g., an audience member, a customer, a friend or family member of an employee who is visiting the workplace, a volunteer, etc.);
- damaging or threatening to damage the property of the Organization or any worker or member of the public (e.g., an audience member, a customer, a friend or family member of an employee who is visiting the workplace, a volunteer, etc.);
- possessing a dangerous weapon or incendiary device; and/or
- engaging in stalking behaviour with respect to any worker.

Responsibilities of Management

Management must:

- promote a non-violent workplace;
- provide Employees with information and instruction regarding the workplace policy and program with respect to workplace violence including appropriate steps to be taken and investigation procedures;

- take every reasonable precaution for the protection of Employees;
- inform workers of potential risk situations;
- ensure workers understand who to contact regarding concerns about the policy or when to report an incident;
- model behaviour that helps support a positive work environment;
- ensure the workplace is free from violence;
- respond to complaints brought to their attention promptly and appropriately;
- respect the confidentiality and sensitivity of such issues to the extent possible;
- document all information and investigation results;
- request that executive-level management conduct an investigation into allegations of violent situations; and/or,
- conduct a Risk Assessment and advise the Organization, and other entities/persons as mandated by legislation, of the results of the Risk Assessment.

Responsibilities of Workers

Workers must:

- comply with this policy by avoiding any behaviour or conduct that could reasonably be interpreted as a violation of this policy;
- maintain a work environment free from violence and/or intimidation;
- participate in training or information sessions as provided by the Organization;
- call 911 if the situation warrants it and they find a peer or themselves in immediate danger;
- exercise their right to refuse work if workplace violence is likely to endanger that worker; and,
- co-operate with authorities and investigators.

Process for Making Violence-Related Complaints

If workers have witnessed or experienced conduct which they believe to be inconsistent with this policy, they have a responsibility to:

- call 911 if the situation warrants it and they find themselves or others in immediate danger;
- make the behaviour/actions known to the EXECUTIVE DIRECTOR immediately. In the case of a complaint regarding the EXECUTIVE DIRECTOR the FILMPEI PRESIDENT OF THE BOARD OF DIRECTORS; and,
- participate in the preparation of an incident report outlining the action/behaviour with the EXECUTIVE DIRECTOR (or the FILMPEI PRESIDENT OF THE BOARD OF DIRECTORS) including the dates, times, nature of the action/behaviour, and witnesses (if any).

Removal of a Person from the Workplace

Any person who makes substantial threats, exhibits threatening behaviour, or engages in violent acts against workers, visitors, audiences, or other individuals while in the Organization's workplace shall be removed from the premises as quickly as safety permits, and shall remain off the premises pending the outcome of an investigation.

Employees are not to remove individuals from the premises themselves. Assistance must be requested from the Police.

Investigation Process

When investigations into complaints are conducted, they will be carried out according to the following guidelines:

- All those directly involved, including the alleged offender and witnesses, will be spoken to within 48 hours of the incident by the EXECUTIVE DIRECTOR. In the case of the EXECUTIVE DIRECTOR being the alleged offender, the FILMPEI PRESIDENT OF THE BOARD OF DIRECTORS will speak with the parties.
- Notes/statements will be prepared during each interview and reviewed by the person(s) being interviewed and signed for accuracy.
- Records or other documents relevant to the incident being investigated (this may include safety reports, incident reports, work schedules, injury reports, complaints and observation notes and may involve taking pictures of the scene) will be reviewed.
- Relevant employment agreement or contract language and/or Organization policies/procedures will be reviewed.

Corrective Action

Any worker found to have engaged in conduct that violates this Policy will be subject to progressive discipline, up to and including termination of employment or contract. Because allegations of acts of violence are very serious, frivolous complaints found to have been made for improper purposes will result in progressive discipline of the complainant.

Confidentiality

Workers should feel secure in knowing that their concerns will be handled discreetly and sensitively.

As such, worker issues will usually remain between the worker and the EXECUTIVE DIRECTOR. On occasion, however, an investigation may require consulting with another worker in order to ensure an appropriate resolution.

Reprisals

This policy strictly prohibits reprisals against a worker because he or she has brought forward a concern or has provided information regarding a concern under this policy. Any worker who commits or threatens reprisal against another worker for following this, or any Organization policy in good faith, may be subject to discipline, up to and including dismissal for cause.

Domestic Violence

Any form of violence, including domestic violence, will not be tolerated by the Organization.

Should the Organization become aware, directly or indirectly, that a worker is or has been subject to domestic violence, the Organization as an Employer must act upon this. This could be as a result of the worker telling the Organization directly or through hearing indirectly that domestic violence is affecting a worker. If a worker admits that he or she is subject to domestic violence but refuses help, the law still requires the Organization to act. We cannot accept a refusal for assistance as a discharge of our obligations to protect our workers.

Similarly, if the Organization becomes aware that a worker is a perpetrator of domestic violence, we will act accordingly.

Reporting

As all workers of the Organization have a shared responsibility to ensure the health and wellbeing of one another, any worker who is aware of a domestic violence situation or a potential domestic violence situation affecting a co-worker has a responsibility to report it to the EXECUTIVE DIRECTOR or anyone in a managerial position with whom he or she is most comfortable disclosing it to.

Workers are responsible for notifying management of any threats which they have witnessed, received, or have been told that another person has witnessed or received including those related to partner violence. Even without an actual threat, workers should also report any behaviour they have witnessed which they regard as threatening or violent.

Workers are responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behaviour and the person or persons who were threatened or were the focus of the threatening behaviour.

Like any immediate threat of any form of violence, workers of the Organization should call 911 if the situation warrants it and they find a peer or themselves in immediate danger.

Confidentiality

To the extent possible, information pertaining to details of a worker who is a victim of domestic violence will be shared on a need-to-know basis only. However, it must be recognized that in certain situations, the Organization may need to provide some information to certain individuals to fulfill our responsibility to protect our workers. In all cases possible, the victim will be informed of whom must be made aware of the situation and why.

IMPORTANT NUMBERS:

FILMPEI ADDRESS: 52 Watts Ave. Charlottetown PE C1A 4E2

EXECUTIVE DIRECTOR – email: director@filmpei.com phone: 902-892-3131

PRESIDENT OF THE BOARD OF DIRECTORS – email: board@filmpei.com

CHARLOTTETOWN POLICE – 902-629-4172 - in emergencies always call 911

References

Prince Edward Island

The Prince Edward Island Human Rights Commission published “Harassment and Bullying – What is Covered” to guide individuals regarding what is considered bullying or harassment as well as employee rights and employer responsibilities regarding possible instances of workplace harassment and bullying (<http://www.gov.pe.ca/humanrights/index.php3?number=1043550&lang=E>).

The Employment Standards Act prohibits workplace sexual harassment and sets out required procedures (<https://www.princeedwardisland.ca/sites/default/files/legislation/E-06-2-Employment%20Standards%20Act.pdf>).

The Occupational Health and Safety Act prohibits workplace violence and sets out required procedures (<https://www.princeedwardisland.ca/sites/default/files/legislation/O%261-01GOccupational%20Health%20and%20Safety%20Act%20General%20Regulations.pdf>).

The Workers Compensation Act governs compensation of traumatic mental stress related to workplace violence (<https://www.princeedwardisland.ca/sites/default/files/legislation/W-07-1-Workers%20Compensation%20Act.pdf>).

The Human Rights Act prohibits discrimination and discriminatory harassment in the workplace (<https://www.princeedwardisland.ca/sites/default/files/legislation/H-12%20-Human%20Rights%20Act.pdf>).

Canada (Federally Regulated Employees)

The Occupational Health and Safety Regulations prohibits workplace violence and sets out required procedures (<http://laws.justice.gc.ca/eng/regulations/SOR-86-304/FullText.html>).

The Canada Labour Code prohibits workplace sexual harassment and sets out required procedures (<http://laws.justice.gc.ca/eng/acts/L-2/FullText.html>).

Checklist of Steps to Take

- Take proactive measures to prevent incidents of workplace harassment and violence.
 - Be aware of legal requirements regarding workplace harassment and violence.
 - Set clear workplace conduct expectations in workplace policies.
 - Establish a workplace policy and procedure regarding workplace harassment and violence and train workers on the workplace policy and procedure.
- Be on the lookout for early warnings signs of workplace issues (such as: increased rumours and gossip; discord in a team or between particular workers where there was none before; a worker avoiding interactions with another; and a worker avoiding looking at or meeting another's eyes at a meeting).
- If complaints of harassment or violence arise, follow the established workplace procedure.
 - Assess the complaint and consider whether an external investigator is needed.
 - If conducting the investigation:
 - Don't assume anything—be careful not to pre-judge the issue.
 - Speak with the complainant.
 - Speak with relevant witnesses.
 - Collect relevant documents.
 - Provide a summary of the allegations to the respondent.
 - Assess the evidence and come to findings.
 - Prepare an investigation report.
 - Obtain legal advice if necessary (e.g., to determine if what happened fits the legal definition of harassment).
 - Apply discipline as necessary.
 - Inform the complainant and respondent of the results of the investigation.
 - Ensure that nobody experiences reprisal for bringing a complaint or participating in the investigation
- Implement a workplace restoration process.
 - Consider how widely to communicate the fact that the investigation has ended.
 - Consider how to bring closure regarding the investigation (e.g. have a team-wide or organization wide meeting to help stop rumour milling, hold team-building exercises; provide coaching for supervisors to reinforce conduct expectation