

Policy: Workplace Violence and Harassment Prevention Policy

1. Mission Statement

Nisichawayasi Nehetho Culture and Education Authority (NNCEA) is committed to fostering a safe, respectful, and harassment- and violence-free workplace that upholds our Cree values and supports the well-being of all employees.

NNCEA recognizes that workplace harassment and violence have serious impacts on mental and physical health, workplace morale, productivity and can create systematic barriers to equality in employment. We are committed to prevention, training, and accountability to ensure a safe and respectful workplace for all employees.

2. Policy Statement

This policy is intended to make the work environment at NNCEA inclusive, safe and non-discriminatory for everyone by setting out expectations and standards of conduct, and by ensuring we have a clear process in place for responding to complaints of workplace harassment and violence.

All forms of discrimination, harassment and violence will not be tolerated, condoned or ignored. All employees are expected to treat others with dignity, courtesy, and respect. As such, NNCEA is committed to allotting whatever time, attention, authority, and resources necessary to ensure a safe and healthy working environment for all employees, students, and people to whom we provide care.

3. Application

This policy applies to the following:

- All employees and contractors at NNCEA who are engaged in work, work-related activities or work-related relationships.
- All behaviour that is connected to work in some way and applies to employees both on NNCEA property and off NNCEA property. This includes off-site meetings, work-related functions, training, and business trips.
- All incidents of workplace harassment and violence, including sexual harassment, sexual violence, family violence and third-party violence.

4. Definition of Harassment and Violence

The *Canada Labour Code* (the Code) defines harassment and violence at subsection 122(1) as, “any action, conduct or comment including of a sexual nature that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment.”

a. Harassment

Harassment can include, but is not limited to any of the following acts or attempted acts:

- Creating a toxic work environment (e.g. tolerating hostile, insulting, or degrading comments or conduct)
- Spreading rumors or gossip about an individual or group
- Making offensive jokes or remarks
- Cyber bullying (threatening, spreading rumours, or talking negatively about an individual online)
- Threats made in person, by phone, email, or through another medium to a worker (including from individual unassociated with the workplace like a spouse or family member, when the incident occurs during the course of work and/or affects the safety of the workplace)
- Playing unwanted practical jokes
- Socially excluding or isolating someone
- Stalking or inappropriately following a person
- Tampering with someone’s work equipment or personal belongings.
- Impeding a person’s work in any deliberate way
- Persistently criticizing, undermining, belittling, demeaning, or ridiculing a person
- Intruding on a person’s privacy
- Public Ridicule or discipline
- Unwelcome physical contact
- Sexual innuendos
- Misusing Authority (constantly changing work guidelines, restricting information, setting impossible deadlines, etc.)
- Displaying offensive posters, cartoons, images or other visuals
- Dismissing or mocking one’s culture, traditions, spiritual practices, languages, or lived experiences.
- Engaging in any of the actions, conduct and comments outlined above against a person when it is linked to one or more of the prohibited grounds listed in the CHRA.

Any behaviour that constitutes harassment still falls under the purview of this policy. If the person being harassed does not speak up or if they appear to be going along with the behaviour, it does not mean the behaviour is exempt from the rules outlined in this policy.

Harassment is not:

- Consensual workplace banter and interactions (unless it includes hurtful remarks about others, especially if they pertain to any of the prohibited grounds)
- Reasonable management action carried out in a fair way, such as day-to-day actions by a supervisor or manager related to:
 - Performance
 - Absenteeism
 - Assignments
 - Discipline, and
 - Dismissal (unless it is abusive or discriminatory)

Every workplace disagreement, if a conflict is poorly handled or left unresolved, can lead to harassment.

b. Violence

Violence can include, but is not limited to the following acts or attempted acts:

- Verbal threats or intimidation
- Verbal abuse, including swearing or shouting offensively at a person.
- Contact of a sexual nature
- Kicking, punching, scratching, biting, squeezing, pinching, battering, hitting or wounding a person in any way
- Attack with any type of weapon
- Spitting at a person.

Any behaviour that constitutes violence still falls under the purview of this policy. If the person that has fallen victim to violence does not speak up, it does not mean the behaviour is exempt from the rules outline in this policy.

5. Responsibilities and Expectations

a. Role of NNCEA

NNCEA is responsible for:

- Committing to preventing harassment and violence in the workplace
- Deploying the workplace emergency procedures whenever an incident, including an incident of family violence or domestic violence, poses an immediate danger to the health and safety of an employee or there is a threat of such an incident.
- Making information related to support services available to all employees.
- Delivering harassment and violence training to all employees and the designated recipient.

- Ensuring that the designated recipient correctly follows the resolution process that is outlined in the *Workplace Harassment and Violence Prevention Regulations* (the Regulations).
- For investigations into an occurrence of harassment and violence, providing a copy of the investigator's report to the principal party, responding party and workplace committee.
- Implementing the jointly determined recommendations from the investigator's report
- Ensuring the resolution process is completed within 1 year after the day on which a notice of occurrence is received.
- Reporting to the Labour Program employee deaths resulting from occurrences of harassment and violence, within 24 hours of becoming aware of the death.
- Providing an annual report to the Labour Program by March 1st of each year summarizing the data on all occurrences of harassment and violence in the previous calendar year
- Complying with all other aspects of the Regulations and the Code as it relates to harassment and violence.

b. Role of NNCEA and the Workplace Committee

NNCEA and the workplace committee are together responsible for:

- Jointly reviewing and, when necessary, updating this policy at least once every 3 years or following any changes to an element of this policy
- Jointly conducting an initial workplace assessment
- Jointly monitoring, and when necessary, updating the workplace assessment when there is:
 - A change to the risk factors identified.
 - A change in the effectiveness of the preventive measures that have been developed and implemented.
- Jointly reviewing and updating the workplace assessment in situations where:
 - The principal party chooses to end the resolution process by the occurrence is not resolved, or
 - The responding party is not an employee or the employer (e.g. a student, parent, or community member)
- Jointly reviewing the workplace assessment and updating it when necessary
- Jointly developing emergency procedures
- Jointly reviewing and updating the emergency procedures
- Jointly reviewing and updating the training at least once every 3 years and following any changes to an element of the training
- Jointly determining with the workplace committee which recommendations from the investigator's report should be implemented.

c. Role of the Designated Recipient

Under this policy, Leah Heyns the Human Resources Generalist will act as the designated recipient. The role of the HR Generalist in relation to harassment and violence prevention at NNCEA includes:

- Responding to all notices of an occurrence within 7 days of receiving the notice
- Initiating negotiated resolution with the principal party within 45 days after the day on which the notice of an occurrence is received.
- Reviewing every notice of an occurrence with the principal party against the definition of harassment and violence outlined in subsection 122(1) of the Code.
- Making every reasonable effort to resolve an occurrence for which a notice has been provided.
- Allowing the principal party and responding parties the option of participating in conciliation if they both agree to participate and on who will facilitate the conciliation.
- providing notice of an investigation to the principal and responding parties if the principal party requests an investigation.
- in the case of an investigation, selecting a person to act as an investigator from the list of investigators developed by NNCEA and the workplace committee.
- ensuring that selected investigators have the necessary knowledge, training and experience required by the Regulations.
- ensuring investigators provide a written statement indicating they are not in a conflict of interest with respect to the occurrence.
- providing investigators all the information that is relevant to their investigation.
- providing monthly status updates to the principal and responding parties on the status of the resolution process

d. Role of Employees

- Refraining from committing harassment and violence
- Where appropriate and safe, informing a person committing harassment and violence that their actions are inappropriate and unwelcomed
- Reporting all occurrences of harassment and violence to their supervisor or the HR Generalist when they experience or witness it
- Where appropriate, making every reasonable effort to resolve an occurrence of harassment and violence through negotiated resolution if they were a party of an occurrence
- Cooperating with an investigator and the investigation process related to an occurrence
- Refraining from retaliatory behaviour against the principal party, responding party, witnesses and any other individual who are involved in the resolution process for an occurrence.

6. Factors that Contribute to Workplace Harassment and Violence

There are several factors that can contribute to workplace harassment and violence. The risk factors that could apply to NNCEA can be categorized into the following:

- Client Characteristics
- Physical Work Environment
- Work Activity
- Cultural Differences
- External Factors

a. Client Characteristics

NNCEA staff work with students, adolescents, and community members that can exhibit certain characteristics that put them at a greater risk of harassment and violence. This can include the following:

- Working with students, parents and community members who may have a history of trauma, violence, or mental health challenges that could lead to aggressive behaviours
- Engaging with students who are experiencing family issues, or crises that could lead to unpredictable or aggressive behaviour
- Engaging with individuals involved in gang activity
- Engaging with individuals who are under the influence of drugs or alcohol
- Engaging with students while in an authoritative position
- Engaging with students with diagnosed or undiagnosed cognitive and/or behavioural disabilities.

b. Physical Work Environment

Certain work environments can result in additional risks that may lead to harassment and violence. At NNCEA, this can include the following:

- Remote work or in isolated locations (remote employees, employees working at the Winnipeg and Thompson Suboffice)
- Working alone or in small groups (e.g. driver, bus drivers, custodians, security etc.)
- Working outside regular working hours (e.g. late night and early morning shifts, overnight shifts)
- Making home visits.

c. Work Activity

The nature of the work that an employee takes on can sometimes lead to an increased risk of harassment and violence. This can include:

- Working with the public
- Handling items of significant value
- Working in the same workplace with an (ex)partner who is abusive
- Excessive staff absences/shortages and high workloads
- Large staff population.

d. Cultural Differences

NNCEA has a diverse workforce that includes individuals that have different cultural backgrounds, languages, and traditions. While diversity can enrich our workplace, it can also bring with it increased risk of workplace conflict. This can include:

- Different communication styles
- Language barriers and misinterpretations
- Workplace expectations including work ethic, punctuality, teamwork or gender roles
- Discrimination or personal biases
- Religious and traditional practices.

e. Other External Factors

Other External factors that exist at NNCEA that could contribute to an increased risk of harassment and violence include:

- Community conflicts such as political issues and local conflicts may make an appearance in the workplace and lead to increased hostility or aggression toward staff
- Limited access to immediate assistance in case of an incident can increase risks for employees working alone
- Financial hardships in the community.

Part B: Training and Prevention

7. Training on workplace harassment and violence

NNCEA and the workplace committee will jointly develop training for all staff. It will be reviewed and updated every three years and following any changes to an element of the training.

All workers, including management will receive training on workplace harassment and violence within three months of being hired and at least once every three years thereafter.

a. Training workers

Training workers on harassment and violence will be tailored to the needs of NNCEA.

It will cover:

- The contents of this policy
- The relationship between workplace harassment and violence and the prohibited grounds of discrimination under the CHRA
- NNCEA's obligations under the CHRA and the Canada Labour Code
- How to recognize, prevent, and report workplace harassment and violence.

The following groups will receive training on their obligations in relation to harassment and violence at least once every three years:

- Supervisors
- Managers
- Directors
- The Designated recipient
- The workplace committee

8. Workplace Assessment

The purpose of the workplace assessment is to identify the risk factors related to harassment and violence in the workplace so that NNCEA can proactively address any issue. The designated recipient and the workplace committee will conduct a joint review and update the assessment every three years, or if an employee submits a notice of occurrence and the resolution process cannot proceed for any of the following reasons:

- The principal party chooses to end the resolution process at any point during the resolution process, but the occurrence is not resolved.
- The responding party is not an employee or the employer.

The purpose of the review and update of the workplace assessment is to:

- Determine what happened, taking into account the circumstances of the occurrence.
- Determine whether all risk factors have been appropriately identified.
- Develop new preventative measures, if needed, to mitigate the risk of a similar occurrence.

Part C: Filing and Addressing a Complaint

9. The Complaint Process

NNCEA recognizes that individuals who have experienced harassment or violence, may be hesitant to come forward. NNCEA is committed to maintaining a workplace free from harassment and violence in which workers feel as safe as possible in reporting their concerns.

This section of the policy outlines the steps of filing an occurrence and the process that NNCEA will follow to resolve the occurrence.

a. Notice of Occurrence

You are encouraged to notify the Designated Recipient if:

- You are an employee who is experiencing or have experienced harassment or violence in the workplace, or
- You are an individual (employee or non-employee) who witnessed an occurrence of harassment or violence in the workplace.

You can notify the Leah Heyns HR Generalist at leahh@nncea.ca or by phone at 204-484-2095.

The designated recipient will have the individual fill out a form, where they will provide the following information:

- The name of the principal party and the responding party (if know)
- The date and location of the occurrence
- A detailed description of the occurrence.

If the individual is not able to provide this information in written form, they can provide this information verbally and the designated recipient will fill out the form for them.

In order to proceed with the resolution process, it is mandatory to provide the name or identity of the principal party who was involved in the occurrence. If this information is not provided, the occurrence will not be further reviewed.

If the responding party no longer works for NNCEA, NNCEA is not required to investigate, but will conduct a review and update its workplace assessment.

Former employees of NNCEA have 3 months after the end of their employment to file a complaint of harassment and violence.

NNCEA cannot reveal the identities of the parties involved in the resolution process for an occurrence to the workplace committee without the consent of the parties. However, the identities of the parties may be revealed to each other as part of the resolution process.

b. Negotiated Resolution

The designated recipient will contact the principal party within five days of receiving the complaint to:

- Confirm that a complaint has been received.
- Explain how this policy may be accessed.
- Explain each step of the resolution process; and
- Advise the principal party that they may be represented at any time during the resolution process.

Negotiated resolution is the first step in the resolution process where the principal party meets with the employer or designated recipient to:

- Discuss the occurrence.
- Clarify what was submitted in the notice of occurrence, and
- Attempt to reach a resolution.

If the principal party wishes that the responding party is involved in this stage of the processes, the designated recipient will contact the responding party to:

- Inform them that there has been a notice of occurrence submitted regarding their actions and provide details regarding the occurrence.
- Explain how this policy may be accessed.
- Explain each step of the resolution process.
- Advise the responding party that they may be represented at any time during the resolution process.

The designated recipient will provide monthly updates on the status of the occurrence to both parties.

During this step, the designated recipient will meet with the principal party, either in person or by phone. This meeting is for an initial discussion regarding the occurrence. During this discussion, the designated recipient and the principal party will review the notice of occurrence against the definition of harassment and violence in the Code. Together, they will try to determine whether the occurrence meets the definition. If both the designated recipient and the principal party agree that the occurrence does not meet the definition, then the occurrence will be

deemed resolved. If they do not agree, and the principal party wishes to continue with the resolution process, the principal party has the following options:

- Continuing with negotiated resolution, or
- Pursuing conciliation and/or an investigation

If the principal party wishes to continue with negotiated resolution, they must inform the designated recipient of their decision. The designated recipient will schedule a series of meetings with the principal party. The designated recipient can arrange for any of the following meetings:

- Meetings with only the principal party and the designated recipient
- Meetings with the principal party, responding party and the designated recipient.
- Meetings between the principal party and the designated recipient with concurrent but separate meetings between the responding party and the designated recipient.

Negotiated resolution is not always appropriate or possible. This will depend on how the principal party and responding party would like the situation to be handled. It will also depend on the circumstances, nature and seriousness of the allegations.

The Director of Education or the designated recipient will work with the parties to determine whether a negotiated resolution process is appropriate.

c. Conciliation/Mediation

If a negotiated resolution is not possible, appropriate, or it did not resolve the problem, the next step will be to offer the parties the opportunity to participate in conciliation. Conciliation or mediation is a confidential process where a neutral individual assists the parties to resolve their dispute, without imposing an outcome. Conciliation will only take place if both parties agree to participate. Conciliation cannot be offered if an investigator has already submitted a report.

Just like with early resolution, conciliation is not appropriate in every circumstance.

If both parties agree to participate in conciliation, the process will follow the guidelines set out in NNCEA's Policy 1026 *Respect and Mediation Practices*.

d. Investigation

The Principal Party may request an investigation at any time during the resolution process. If the principal party wishes to proceed with an investigation, they must inform the designated recipient. The designated recipient will then:

- Provide notice of an investigation to the principal party and responding party, and

- Select an investigator from the list that has been jointly developed with the workplace committee.

The investigation will be conducted in accordance with the principles of procedural fairness, the CHRA, the Code, and the collective bargaining agreement (if applicable).

The selected investigator will investigate the occurrence and provide NNCEA a report outlining:

- A detailed description of the occurrence
- Their conclusion, and
- Their recommendation to eliminate or minimize the risk of a similar occurrence.

NNCEA will provide a copy of this report to the principal party, responding party and the workplace committee. This report will not directly reveal the identities of the principal party or responding party. However, in some instances, it may be possible to identify witnesses from the circumstances.

The Director of Education and the workplace committee will work together to determine which of the recommendations included in the investigator's report should be implemented. NNCEA is responsible for implementing these recommendations within one year after receiving the complaint.

If an investigator finds that there is insufficient evidence to support an allegation of harassment or violence, the complaint will be considered unsubstantiated. In this case, the designated recipient will schedule follow up discussions with each of the parties and is responsible for leading efforts to facilitate the return to a healthy workplace.

If either party believes that the complaint is not being handled in accordance with this policy, they should contact the Director of Education.

e. Representation

At any time during the resolution process, an employee may be accompanied by a:

- Union representative
- Friend
- Partner
- Colleague, or
- Person of their choosing.

10. The Reprisals Process

Parties involved in an occurrence are prohibited from seeking retaliation. Direct and indirect retaliation by and against any employee, including management, will not be tolerated. This could include:

- Treating a person with hostility
- Excluding or isolating
- Making negative remarks
- Assigning demeaning duties
- Engaging in discriminatory, harassing, or violent behaviour
- Demoting, disciplining or dismissing a person because they exercised their rights or responsibilities under this policy.

If you feel you are experiencing any retaliatory action or threat of retaliatory action from the responding party, witnesses, management, or other individuals within or outside the organization, please inform the Director of Education or the designated recipient immediately.

Part D: Other Procedures

11. Emergency Procedures

All emergency procedures for NNCEA can be found in the Emergency procedures policy. Employees are responsible for familiarizing themselves with the content of these procedures.

12. Support Measures and Accommodation

Employees wishing to access support services related to harassment and violence can contact the following organizations:

- Noosi Muskwa Women's Shelter
 - Emergency on-call: 431-354-1840
 - 24/7 landline: 204-484-2634
 - Email: womensshelter@nncree.com
- Family and Community Wellness Centre
 - 204-484-2341
- Canadian Mental Health Association – Thomson Region
 - 204-677-6050
 - regional@cmhathompson.ca
 - <https://www.cmhaacrossmb.ca/about-cmha/contact-us/>
- Sexual Assault Crisis Line: 1-888-322-3019
- Manitoba Suicide Prevention & Support Line: 1-877-435-7170

- Manitoba 211
- Manitoba Teachers Society Employee Assistance Program

13. Record Keeping

The Designated recipient is responsible for keeping the workplace harassment and violence policy and the documents forming part of the workplace assessment.

In accordance with subsection 35(1) of the Regulations, NNCEA will keep the following records:

1. The workplace harassment and violence prevention policy
2. A copy of the documents that form part of the workplace assessment.
3. A copy of the documents that form part of each review and update of the workplace assessment.
4. A record of NNCEA's decision (and the reasons for that decision) in each instance where NNCEA and the workplace committee disagree on a joint matter.
5. A record of each notice of occurrence (alleged incident of harassment or workplace violence) and of each action taken in response to the notice
6. A document explaining the reason for a delay when a time limit is not met
7. A copy of each investigation report
8. A copy of each annual report
9. A copy of each fatality report (where relevant)

The records listed above will be kept for ten years.

14. Other Recourse Avenues

Employees can pursue multiple recourse avenues for their occurrence. This can include:

- Filing a grievance with the Union
- Pursuing recourse under the *Canadian human Rights Act* with the Canadian Human Rights Commission, or
- Pursuing recourse under the *Criminal Code*.

15. Notices submitted in bad faith

Notices of harassment and violence that have been found to be submitted in bad faith may be subject to disciplinary action.

16. Privacy and Confidentiality

NNCEA and all individuals involved in a notice of occurrence are expected to respect the privacy and confidentiality of everyone involved while the notice is being addressed. Confidentiality is essential to maintain the integrity of the notice of occurrence process, not to conceal allegations of harassment and violence.

Confidentiality does not prevent an individual from:

- Seeking medical, psychological, or social support services
- Taking appropriate interim measures or corrective actions
- Complying with any legal obligations.

NNCEA will not disclose the name of a principal party, or details related to the complaint unless it is necessary for investigating the complaint or taking disciplinary measures. NNCEA will not disclose information related to disciplinary measures or sanctions imposed on a responding party except where doing so is necessary to carry out said disciplinary measures or sanctions.

17. Definitions

The following definitions apply to this policy:

- **Occurrence:** an alleged incident of harassment, sexual harassment, or violence in the workplace.
- **Principal Party:** The employee or employer who is the object of an occurrence.
- **Responding Party:** the person (or people) who is alleged to have been responsible for the occurrence in a notice of occurrence provided to the designated recipient.
- **Witness:** a person who witnessed an occurrence of harassment and violence or is informed of an occurrence by the principal party or responding party