**DATE OF LAST REVISION:** Jan 2017 **POLICY/PROCEDURE TYPE:** HUMAN RESOURCES

**REVIEW SCHEDULE:**  ANNUAL

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| **Purpose** | Markham Public Library (MPL) is committed to providing and maintaining a working environment that is based on respect for the dignity and rights of everyone in the organization. It is MPL’s goal to provide a healthy and safe work environment that is free of any form of harassment or violence. |
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| **Scope** | This policy applies to all employees, volunteers, contractors and consultants. It applies in any location in which you are engaged in work-related activities. This includes, but is not limited to:   1. the workplace 2. during work-related travel 3. at restaurants, hotels or meeting facilities that are being used for business purposes 4. in company owned or leased facilities 5. during telephone, email, online, social media or other communications; and 6. at any work-related social event, whether or not it is company sponsored   This policy also applies to situations in which you are harassed or subjected to violence in the workplace from individuals who are not employees of the organization, such as customers and suppliers. |
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| **MPL’s Workplace Harassment Program** | It is the responsibility of MPL and all its employees to create and maintain a harassment and violence-free workplace and address violence and/or the threat of violence from all possible sources (including customers, clients, employers, supervisors, workers, strangers and domestic/intimate partners).In order to meet this responsibility, MPL maintains a **Workplace Harassment Program** which in collaboration with the Joint Health and Safety Committees at MPL. This program is outlined below.  **Markham Public Library’s Commitment**  MPL does not tolerate or condone discrimination, harassment or violence in the workplace. In order to support a workplace based on respect, MPL commits to making everyone in our organization aware of what behavior is and is not appropriate, assessing the risk of workplace violence, investigating complaints and imposing suitable corrective measures.  In compliance with Ontario’s *Bill 132 Workplace Harassment Act,* the MPL Workplace Harassment Program will ensure that:   * definitions of harassment and the process for reporting instances of workplace harassment are clearly communicated to staff * the Workplace Harassment Program be reviewed annually * the Respect in the Workplace policy be reviewed annually * all MPL staff be trained on this policy and the process for reporting instances of workplace harassment * all MPL receive annual refresher training on this policy and the Workplace Harassment Program |
| **Understanding Harassment** **Clarifying What is NOT Harassment** | MPL’s Workplace Harassment Program recognizes several forms of discrimination, all of which are prohibited under this policy.  **Discrimination**  Workplace discrimination includes any distinction, exclusion or preference based on the protected grounds in the Ontario *Human Rights Code*, which nullifies or impairs equality of opportunity in employment, or equality in the terms and conditions of employment.  The protected grounds of discrimination are:   1. race, colour, ancestry, citizenship, ethnic origin or place of origin 2. creed, religion 3. age 4. sex (including pregnancy, gender expression and gender identity) 5. sexual orientation 6. family, marital (including same-sex partnership) status 7. disability or perceived disability 8. record of offences for which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked, or an offence in respect of any provincial enactment   **Sexual Harassment**  Sexual harassment includes conduct or comments of a sexual nature that the recipient does not welcome or that offend him or her. It also includes negative or inappropriate conduct or comments that are not necessarily sexual in nature, but which are directed at an individual because of his or her gender.  Both men and women can be victims of harassment, and someone of the same or opposite sex can harass someone else.  Some examples of sexual harassment are:   1. sexual advances or demands that the recipient does not welcome or want 2. threats, punishment or denial of a benefit for refusing a sexual advance 3. offering a benefit in exchange for a sexual favour 4. leering (persistent sexual staring) 5. displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic web sites or other electronic material 6. distributing sexually explicit e-mail messages or attachments such as pictures or video files 7. sexually suggestive or obscene comments or gestures 8. unwelcome remarks, jokes, innuendoes, propositions or taunting about a person’s body, clothing or sex 9. persistent, unwanted attention after a consensual relationship ends 10. physical contact of a sexual nature, such as touching or caressing; and 11. sexual assault   **Discriminatory Harassment**  Discriminatory harassment includes comments or conduct based on the protected grounds in the Ontario *Human Rights Code*, which the recipient does not welcome or that offends him or her.  Some examples of discriminatory harassment include:   1. offensive comments, jokes or behavior that disparage or ridicule a person’s membership in one of the protected grounds, such as race, religion or sexual orientation 2. imitating a person’s accent, speech or mannerisms 3. persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children; or 4. inappropriate comments or jokes about an individual’s age, sexual orientation, personal appearance or weight.   **Poisoned Work Environment**  Harassing comments or conduct can poison someone’s working environment, making it a hostile or uncomfortable place to work, even if the person is not being directly targeted. This is commonly referred to as a **poisoned working environment** and it is also a form of harassment.  Some examples of actions that can create a poisoned work environment include:   1. displaying offensive or sexual materials such as posters, pictures, calendars, web sites or screen savers 2. distributing offensive e-mail messages, or attachments such as pictures or video files 3. practical jokes that embarrass or insult someone; or 4. jokes or insults that are offensive, racist or discriminatory in nature   **Workplace Harassment and Bullying**  Workplace harassment is a health and safety issue that is covered under the *Occupational Health and Safety Act.*  The *Occupational Health and Safety Act* defines workplace harassment 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.  Workplace harassment may have some or all of the following components:   1. it is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient’s psychological or physical integrity and has a lasting harmful effect 2. it is hostile, abusive or inappropriate 3. it affects the person’s dignity or psychological integrity; and 4. it results in a poisoned work environment   In addition, behavior that intimidates, isolates or discriminates against the recipient may also be included.  Some examples of workplace harassment are:   1. verbally abusive behavior e.g. yelling, swearing, insults, ridicule and name calling including remarks, jokes or innuendos that demean, ridicule, intimidate or offend 2. workplace pranks, vandalism, bullying and hazing 3. gossiping or spreading malicious rumours 4. excluding or ignoring someone, including persistent exclusion or a particular person from workplace-related social gatherings 5. undermining someone else’s efforts by setting impossible goals, with short deadlines and deliberately withholding information that would enable a person to do their job 6. providing only demeaning or trivial tasks in place of normal job duties 7. humiliating someone 8. sabotaging someone else’s work 9. displaying or circulating offensive pictures or materials 10. offensive or intimidating phone calls or emails 11. impeding an individual’s efforts at promotions or transfers for reasons that are not legitimate; and 12. making false allegations about someone in memos or other work related documents   **Workplace Gossip**  Malicious or excessive gossip disrupts productivity, lowers morale, destroys relationships and inhibits trust. Gossip and negative comments are embarrassing and humiliating to the subject of the gossip and can hurt their feeling or damage their reputation. Gossip can easily cross the line into harassment, and can become a health and safety or human rights issue. As such, you must refrain from gossiping at work.  **Workplace and Domestic Violence**  Workplace and domestic violence that may occur in the workplace are health and safety issues, which are covered under the *Occupational Health and Safety Act*.  **Workplace Violence**  Workplace violence is defined under the *Occupational Health and Safety Act* as:   1. the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker 2. an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker 3. a statement or behavior 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   It is defined broadly enough to include acts that may be considered criminal. Workplace violence includes:   1. physically threatening behavior e.g. shaking a fist at someone, finger pointing, destroying property, throwing objects 2. verbal or written threats to physically attack a worker 3. leaving threatening notes or sending threatening emails 4. wielding a weapon at work 5. stalking someone; and 6. physically aggressive behaviours e.g. hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing an object at someone, physically restraining someone or any other form of physical or sexual assault.   Violence that occurs outside the normal workplace but which has an impact on the working environment, including working relationships, may also be considered violence in the workplace. This includes **Domestic Violence** if the results of this abuse presents harm or the risk of harm in the workplace.  **What Isn’t Harassment?**  Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:   1. Measures to correct performance deficiencies, such as placing someone on a performance improvement plan 2. Providing reasonable instruction to employees or colleges 3. Reasonable feedback on performance 4. Imposing discipline for workplace infractions; or 5. Requesting medical documents in support of an absence from work   It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.  **The Test of Harassment**  It does not matter whether someone intended to offend a colleague or employee. The test of harassment is whether he or she knew or *should have known* that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through their conduct or body language that the behavior is unwelcome, in which case the employee would be expected to immediately stop that behavior.  Although it is commonly the case, the harasser does not necessarily have to have power or authority over the victim. Harassment can occur from co-worker to co-worker, supervisor to employee and employee to supervisor. |
| **RESPONSIBILITIES OF STAFF & MANAGERS** | **Duties of All Employees**  You must do your part by ensuring that your behavior does not violate this policy and by fostering a work environment that is based on respect and is free of harassment by taking active, conscious steps to create a positive working environment. This may include, but is not limited to:   * respecting the individual differences of your colleagues * recognizing that each individual has a different comfort level with respect to what behaviours they find offensive (e.g. a comment intended as a compliment may make the recipient uncomfortable) * avoid negative attitudes that can lead to a toxic work environment * observe proper business etiquette including appropriate use of email * Refrain from gossip and other malicious behaviours * Actively pursue positive, constructive and respectful opportunities for teambuilding * act if you witness or are the subject of inappropriate or harassing behaviour by taking the appropriate steps outlined in this document   You are also required to report to your Manager or Senior Management, the existence of any workplace violence or threat of workplace violence.  **Duties of Supervisors and Managers**  Markham Public Library has an obligation to provide and maintain a workplace free of harassment. Supervisors and Managers are responsible to help meet this obligation.  In addition to the responsibilities outlined above that apply to all employees, supervisors and Managers have additional responsibilities, including:   * being familiar with this *Respect in the Workplace* policy and the complaints procedure * complying with the supervisory duties provisions of the *Occupational Health & Safety Ac*t, including protecting employees from workplace violence and advising of a history of violence * educating and advising your staff about the applicable policies and procedures * taking action against discriminatory, harassing and violent behaviour as soon as it occurs or comes to your attention * taking all complaints of harassment seriously and reporting the matter to Senior Management * Act as a role model and refrain from engaging in conduct that may be perceived as harassment or unprofessional * Refuse to condone harassment or unprofessional behaviour by colleagues * Monitor the work environment and speak to anyone who behaves inappropriately * Take the initiative to speak to anyone you believe is being harassed, and encourage them to take the appropriate action * Protect complainants from retaliation   **Responsibility of Supervisors and Managers**  If a reasonable person ought to have known that harassment was taking place and the Manager or Supervisor failed to act to address the situation, he or she **could be held personally liable**.  **Supervisory Responsibilities for Violence in the Workplace**  Managers must also take every reasonable precaution to protect employees from workplace violence, including evaluating a person’s history of violent behavior to determine whether and to whom this employee poses a risk. In making this evaluation supervisors should consider:   * whether the person’s history of violence was associated with the workplace or work; * whether the history of violence was directed as a particular employee or employees in general; and * how long ago the incidence of violence occurred.   In certain circumstances, managers may have a duty to provide information about a risk of workplace violence from a person with a history of violent behavior if an employee can be expected to encounter that person during the course of his or her work, and the risk of workplace violence is likely to expose the employee to physical injury. Managers will only release as much personal information about the person with a history of violent behavior as is reasonably necessary to protect the employee from physical injury. |
| **Procedure for Resolving and Investigating Harassment Complaints** | **Informal Procedure**  If an employee believes that he or she is being harassed, the first thing to do is to tell the person to stop, as soon as he or she experiences unwelcome comments or conduct. Although this may be difficult to do, this is often enough to stop the behavior.  Some of the things responses that might stop the behavior include:   1. “I don’t want you to do that.” 2. “Please stop doing or saying ……….” 3. “It makes me uncomfortable when you ……....” 4. “I don’t find it funny when you ………..”   If the harassment continues after the employee has confronted the individual, he or she may want to provide a written statement of the situation. Include specific details of the behaviours considered to be harassing, the request to the harasser to stop and your expectations that he or she will stop. Provide details of the next steps that will be taken if the harassment does not stop, e.g., filing a formal complaint. Employees are encourage to keep copies of any documentation related to the incident..  It helps to keep a record of any incident(s) that you experience. This includes when the harassment started, what happened, whether there were any witnesses and what was your response.  If someone who is not a member of our organization, e.g., a customer, supplier, etc., has harassed or discriminated against an employee, he or she should report the harassment to a manager.  **Formal Procedure**  If the complaint cannot be resolved informally or if it is too serious to handle on an informal basis, employees may bring a formal complaint to his or her Manager or any member of the Senior Management team. Staff may report harassment to any member of management, particularly if it is his or her direct supervisor that is accused of harassment.  Formal complaints require as much written information as possible, including the name of the person accused of harassment, the place, date and time of the incident(s), and the names of any possible witnesses. This report should be made as soon as possible after the alleged incident in order to prevent the behaviour from continuing.  Discrimination and harassment are serious matters. Therefore, if an employee decides not to make a formal complaint, management may still need to investigate the matter and take steps to prevent further harassment. For example, management may need to continue with an investigation if the allegations are serious or if there have been previous complaints or incidents involving the respondent. Additionally, the Ministry of Labour may compel the employer to conduct a third-party workplace investigation and prepare a report of findings to establish whether or not harassment has occurred.  Please note that it is MPL’s policy not to investigate anonymous complaints unless there are extenuating circumstances.  **Investigation Procedure**  Senior Management is responsible to ensure an investigation is conducted in response to a harassment claim. The employer will commence an investigation as quickly as possible. The library may choose to use either an internal or external investigator, depending on the nature of the complaint.  The investigation will include:   1. Interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations 2. Interviewing witnesses, if any 3. Reviewing any related documentation; and 4. Making detailed notes of the investigation and maintaining them in a confidential file   Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings to the CEO. A summary of the findings will also be provided to the complainant and respondent.  It is the goal of this program to complete any investigation and communicate the results to the complainant and respondent within **thirty days** after a complaint is received.  **Corrective Action**  The Senior Management will determine what action should be taken as a result of the investigation.  A report will be provided in writing to the complainant outlining the findings of the investigation and the corrective action taken as a result.  If a finding of harassment is made, Markham Public Library will take appropriate corrective measures, regardless of the respondent’s seniority or position in Markham Public Library.  Corrective measures may include one or more of the following:   1. Discipline, such as a verbal warning, written warning or suspension without pay] 2. Termination with or without cause 3. Referral for counseling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on workplace respect 4. A demotion or denial of a promotion 5. Reassignment or transfer 6. Any other disciplinary action deemed appropriate under the circumstances   If an employee makes a complaint in good faith and without malice, regardless of the outcome of the investigation, he or she will not be subject to any form of discipline. Markham Public Library will, however, discipline or terminate anyone who brings a false and malicious complaint.  Markham Public Library will not tolerate any attempts at retaliation for a harassment or workplace violence complaint (**see PROTECTION FROM RETALIATION** in this document). |
| **Procedure for Resolving and Investigating Workplace Violence** | **Workplace Violence**  Employees have the right to refuse work if workplace violence is likely to endanger their safety. In that instance, employees must immediately contact aManager at which point appropriate measures will be taken to ensure protection and to investigate the situation. Employees will be moved to a safe place as near as reasonably possible to their normal work station and will need to be available for the purposes of investigating the incident. In some circumstances, he or she may be provided with reasonable alternative work during normal working hours.  In appropriate circumstances, the police, or other emergency responders may be called to assist, intervene or investigate workplace violence. Details about the measures and procedures for summoning immediate assistance will be provided and may include:   * Equipment to summon assistance such as fixed or personal alarms, locator or tracking systems, phones, cell phones, etc.; * Emergency telephone numbers and/or email addresses; * Emergency procedures   Provided the situation is dealt with quickly and the danger to workers is removed, the necessity of work refusal may be alleviated.  **Investigation Procedure**  Staff are required to report the existence of any workplace violence or threat of workplace violence to a manager as soon as possible. The Employer will commence an investigation as quickly as possible. The employer may choose to use either an internal or external investigator, depending on the nature of the incident.  The investigation will include:   1. Conducting interviews of relevant individuals to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations 2. Reviewing any related documentation; and 3. Making detailed notes of the investigation and maintaining them in a confidential file   Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings. A copy of the report will be provided to the Joint Health and Safety Committee.  **Corrective Action**  The CEO will determine what action should be taken as a result of the investigation.  If a finding of workplace violence is made, Markham Public Library will take appropriate corrective measures, regardless of the respondent’s seniority or position in Markham Public Library.  Corrective measures may include one or more of the following:   1. Discipline, such as a verbal warning or suspension without pay 2. Termination with or without cause 3. Referral for counseling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on workplace respect 4. A demotion or denial of a promotion 5. Reassignment or transfer 6. Financial penalties such as the denial of a bonus or performance related salary increase, and 7. Any other disciplinary action deemed appropriate under the circumstances |
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| **Procedures for Addressing Domestic Violence** | If an employee is experiencing domestic violence that would expose themselves or other colleagues to physical injury in the workplace or they are experiencing workplace violence or believe that workplace violence is likely to occur, they may seek immediate assistance by contacting any member of the Senior Management team or a manager. Senior Management will assist in preventing and responding to the situation. |
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| **Confidentiality of Complaints and Investigations** | MPL recognizes the sensitive nature of harassment and violence complaints and we will keep all complaints confidential, to the extent possible. The employer and/or investigator will only release as much information as is necessary to investigate and respond to the complaint or situation or if required to do so by law.  Out of respect for the relevant individuals, it is essential that the complainant, respondent, witnesses and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterwards.  The results of the Workplace Harassment investigation are confidential and will only be shared with the Complainant and Respondent. The Workplace Harassment Investigation Report or any notes or documents related to the investigation are not considered “reports respecting Occupational Health and Safety” under Section 25 (2)of the *Occupational Health and Safety Act*. As such, no documentation related to workplace investigations will be shared with the Joint Health and Safety Committee. |
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| **Protection from Retaliation** | Markham Public Library will not tolerate retaliations, taunts or threats against anyone who complains about harassment or takes part in an investigation. Any person who taunts, retaliates against or threatens anyone in relation to a harassment or violence complaint may be disciplined or terminated. |