

SECTION 11

HUMAN RIGHTS

11.01 Respectful Workplace Policy

AUTHORITY: JOINT UNION / MANAGEMENT AGREEMENT

ADMINISTRATION: PEI PUBLIC SERVICE COMMISSION
GOVERNMENT DEPARTMENTS / AGENCIES

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1. PURPOSE

- 1.01 The Government of Prince Edward Island, as the Employer, and the PEI Union of Public Sector Employees have jointly developed a Respectful Workplace Policy (the “Policy”):
- To promote, establish and maintain a respectful workplace;
 - To establish and recognize the roles and responsibilities of the Employer; and all Provincial Civil Service Employees in the development and maintenance of a respectful workplace;
 - To meet the Employer’s ethical and legal obligations to provide a respectful work environment;
 - To protect both the physical and psychological health and safety of employees; and
 - To ensure fair, confidential and transparent resolution processes.

2. APPLICATION

- 2.01 This Policy applies to any employee who performs work in any Civil Service workplace. Where applicable, the policy also applies to volunteers, students, contractors, and fee for service individuals.

3. POLICY STATEMENT

- 3.01 All Employees of the Provincial Civil Service shall be provided a right to work in a respectful work environment free of disrespectful behaviour, discrimination, bullying and/or harassment (sexual harassment, personal harassment and abuse of authority).
- 3.02 The Government of Prince Edward Island, as an Employer, is committed to providing a workplace free of disrespectful behaviour, discrimination, bullying and/or harassment, in which all employees can expect to be treated with dignity, fairness and respect, as far as is reasonably practicable. Discrimination, bullying and/or harassment can undermine an individual's self-respect, erode mental health and adversely affect their work performance and well-being. It also reduces the productivity and effectiveness of the public service.
- 3.03 The Government of Prince Edward Island values the dignity of all employees and is committed to creating and maintaining a respectful work environment.

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- 3.04 Nothing in this Policy precludes an employee from exercising other legal rights pursuant to any other law.
- 3.05 If harassment or discrimination is based on one of the grounds of discrimination prohibited under the Provincial *Human Rights Act*, employees have the right to file a complaint with the Prince Edward Island Human Rights Commission.

4. DEFINITIONS

Bullying is usually seen as acts or verbal comments that could psychologically or mentally hurt or isolate a person in the workplace. Sometimes, bullying can involve negative physical contact as well. Bullying usually involves repeated incidents or a pattern of behaviour that is intended to intimidate, offend, degrade or humiliate a particular person or group of people.

Complaint means an allegation of discrimination, bullying and/or harassment which is based on actions as defined in this policy.

Complainant means any person who makes a complaint of discrimination, bullying and/or harassment, or who brings an incident of discrimination, bullying and/or harassment, to the attention of the Employer under this policy.

Day means working day.

Discrimination means any negative, prejudicial, or unjust treatment of a person based on one or more of the personal characteristics protected under the *Human Rights Act*, RSPEI 1988, H-12 (i.e. age, colour, creed, disability, ethnic or national origin, family status, gender expression, gender identity, marital status, political belief, race, religion, sex, sexual orientation, or source of income).

For greater certainty, when used in this policy, discrimination has the same meaning as defined in the *Human Rights Act*, RSPEI 1988, H-12.

Disrespectful Behaviour means actions or comments that are inappropriate, demeaning or otherwise offensive and which create an uncomfortable, hostile and/or intimidating work environment.

Employee means all permanent, temporary, casual, full time, part time employees of the Civil Service (and any others as defined in the *Civil Service Act*).

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Employer means the Government of Prince Edward Island as defined in the *Civil Service Act*. These terms, (*Employer* and *Government of Prince Edward Island*), may be used interchangeably throughout this policy.

Harassment means any inappropriate conduct, comment display, action or gesture or any bullying that the person responsible for the conduct, comment, display, action or gesture or bullying knows, or ought reasonably to know, is offensive or harmful and could have a harmful effect on a worker's psychological or physical health or safety. Harassment can be a single or repeated occurrence of behaviour as outlined in this definition. Harassment can include persistent, aggressive or unreasonable behaviour, and can also include verbal, non-verbal, psychological, or physical behaviours. Harassment can be perpetrated in person (i.e. face-to-face) or can take place electronically (i.e. including, but not limited to, text messages, social media, or e-mail).

Harassment includes the following:

- a) *Personal Harassment* means any unwarranted, offensive behaviour that is known or ought reasonably to be known to be unwelcome. It includes any inappropriate comment, conduct, gesture or display that does or is intended to demean, intimidate, bully or cause embarrassment to another person. Personal harassment includes, but is not limited to, harassment on the basis of a person's age, colour, creed, disability, ethnic or national origin, family status, gender expression, gender identity, physical size or weight, marital status, political belief, race, religion, sex, sexual orientation, pregnancy, or source of income.
- b) *Sexual Harassment* means any conduct, comment, gesture or contact of a sexual nature that is likely to cause offense, embarrassment or humiliation to the recipient; or 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. Sexual harassment in the workplace is broadly defined as unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences for the victim. Sexual harassment includes but is not limited to, sexual solicitations or advances, sexually suggestive remarks, jokes or gestures, circulating or sharing inappropriate images, or unwanted physical contact. It is not flirtation, chit chat or good-natured jesting that is sometimes part of office life when both parties find the conduct acceptable.

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- c) *Abuse of Authority:* Where one or more individuals holds a position with inherent power and authority, and they use that power or authority in a manner which serves no legitimate work purpose, and which is, or ought reasonably to be known, to be inappropriate. It includes, but is not limited to, misuses of power which are intimidating, coercive, or demeaning.

Harassment does not include:

- The legitimate and proper exercise of the Employer's right to supervise or manage, (e.g. performance reviews, work evaluation and disciplinary measures taken for any valid reason);
- Other routine interaction, including interpersonal conflicts or difficulties from time to time, that do not meet the definition of harassment defined above; or
- Occasional curtness or lack of friendliness, unless the curtness or lack of friendliness is so persistent or intense and individualized that it creates an uncomfortable, hostile and/or intimidating work environment.

Mediation is a voluntary process used to resolve conflict by having a neutral person help the disputing parties arrive at a mutually acceptable solution. For greater certainty, mediation can include other alternative dispute resolution mechanisms.

Psychological Health/Mental Health means a state of well-being in which the individual realizes their own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to contribute to their community.

Psychologically Healthy and Safe Workplace means a workplace that promotes employees' psychological well-being and actively works to prevent harm to employee psychological health including in negligent, reckless, or intentional ways.

Respectful Behaviour is behaviour that demonstrates the value of mutual respect, dignity, courteous conduct, diversity, equality, inclusion, and fairness, and promotes positive communication and collaborative working relationships.

Respectful Workplace means a Government of Prince Edward Island workplace that is free from disrespectful behaviour and demonstrates civility and respect. Civility and respect constitute showing esteem, care, and consideration for others, and acknowledging their dignity.

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Respondent means any person against whom a complaint has been made.

Workplace means all premises owned and occupied by the Employer, and every location where the Employer maintains an office or facilities or otherwise assigns Employees to perform regular duties of their position, including designated remote workplaces and in-transit between one or more workplaces. Workplace may also include, but is not limited to; business travel, training sessions, conferences, work related gatherings, and the employee or client's home (if deemed a workplace).

5. RESPONSIBILITIES

While it is recognized that all employees share responsibility for creating a respectful workplace, it is important to emphasize that directors, managers and supervisors, by virtue of their authority, carry a greater responsibility for maintaining this type of work environment.

5.01 Deputy Heads and Heads of Agencies

Deputy Heads and heads of agencies are responsible for ensuring that the provisions of this policy are implemented in their respective organizations. This responsibility includes:

- a) ensuring that all directors, managers, and supervisors in their organizations are informed of the Policy and are advised of their responsibilities and rights;
- b) providing leadership in the provision of respectful workplaces and the prevention of discrimination, bullying and/or harassment in their workplaces by fostering a climate of mutual respect;
- c) monitoring compliance with the Policy in their organizations;
- d) ensuring that prompt and appropriate action is taken when they become aware of instances of discrimination, bullying and/or harassment;
- e) ensuring fair and equitable procedures for all parties to a complaint of discrimination, bullying and/or harassment; and
- f) taking disciplinary or other corrective measures, where necessary.

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5.02 Employees with Supervisory and/or Management Responsibility

All directors, managers and supervisors are responsible for incorporating this Policy in their daily activities and ensuring that the Policy is adhered to in their areas of responsibility by:

- a) becoming fully informed of the provisions of the Policy;
- b) maintaining a high standard of personal conduct in their dealings with all employees and clients;
- c) ensuring that all employees are informed of the Policy and advised of their rights and responsibilities under this Policy and the resolution processes available to them;
- d) providing opportunities for education and training related to respectful workplaces, discrimination, bullying and/or harassment to all employees under their supervision;
- e) ensuring that prompt and appropriate action is taken when a complaint is received; and
- f) supporting employees in any procedures under this Policy.

5.03 Human Resources

Human Resources and Labour Relations staff shall be responsible for:

- a) becoming fully informed of the provisions of the Policy;
- b) supporting the promotion of the Policy to employees of the Provincial Civil Service;
- c) assisting employees, management, and the Director of Human Resource Management & Labour Relations with respect to the application and administration of the Policy and Procedures; and
- d) where behaviour of a criminal nature has occurred or is thought to have occurred, ensuring the complainant is informed of their right to advance the complaint to the appropriate police service for investigation.

5.04 PEI Union of Public Sector Employees

The PEI Union of Public Sector Employees shall:

- a) become fully informed of the provisions of the Policy;
- b) advocate with the Employer in promoting the Policy to members of their bargaining unit;

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- c) report known instances of discrimination, bullying and/or harassment to the appropriate person as soon as practicably possible; and
- d) encourage effective resolution of complaints of discrimination, bullying and/or harassment.

5.05 All Employees

It is expected that all employees:

- a) support a respectful work environment free of discrimination, bullying and harassment by complying with this Policy and ensuring their behaviour meets reasonable and/or acceptable standards as outlined in this Policy;
- b) treat all persons in the workplace with respect in a manner that is free of discrimination, bullying and harassment;
- c) change their own behaviour when given indications that the behaviour is offensive or disrespectful to others;
- d) take action, where possible and safe to do so, should they feel they or another person are being subjected to discrimination, bullying and/or harassment;
- e) report any incident(s) of observed or experienced discrimination, bullying and/or harassment to the attention of the appropriate person (as defined in Section 8) as soon as practicably possible; and
- f) cooperate fully with all those responsible for dealing with a complaint of discrimination, bullying and/or harassment.

5.06 Public Service Commission

The Public Service Commission is responsible for the development and maintenance of the Policy. The Commission will ensure that the Policy is available electronically to employees within the Human Resource Policy and Procedures Manual. If departments require hard copies of the Policy, it is their responsibility to establish and maintain them in an up-to-date manner.

All updates, corrections, and revisions will originate from the Commission and will be distributed electronically. Employees are responsible for reading these revisions.

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The Public Service Commission shall:

- a) promote the Policy to employees of the Provincial Civil Service;
- b) provide assistance to employees and employers with respect to the interpretation, application and administration of the Policy and Procedures;
- c) monitor and track formal complaints; and
- d) provide oversight, advice and endeavour to ensure adherence/compliance for processes and procedures as it pertains to complaints made under this Policy.

6. PRINCIPLES

- a) All employees shall be treated equitably under this Policy, and all matters arising under this Policy shall be dealt with in a fair, unbiased, confidential and timely manner.
- b) All employees shall be advised of the provisions of this Policy and of the resolution processes available to them.
- c) Supervisors, managers and directors shall take immediate action to report or deal with incidents of discrimination, bullying and/or harassment that come to their attention, regardless of whether a formal complaint has been made.
- d) Either party to a complaint may object to the participation of a person in the administration of this Policy on grounds of conflict of interest or reasonable apprehension of bias. If an allegation of conflict of interest or apprehension of bias is made, a separate investigation may be warranted to determine whether the allegation is founded.
- e) All complaints made pursuant to section 9.03 of this Policy and all decisions made pursuant to this Policy shall be made in writing.

7. CONFIDENTIALITY

All complaints under this Policy, both formal and informal, and any information and materials related to the complaints will be treated on a confidential basis by all parties involved. The Employer shall not disclose any identifying information about a person involved or the circumstances relating to the complaint to any person unless disclosure

is necessary for the purposes of investigating the complaint, taking corrective action with respect to the complaint, or permitted by law.

Confidentiality is subject to the following:

- a) A supervisor or manager is responsible for addressing every reported or known violation of this Policy.
- b) The person alleged to have acted inappropriately (the Respondent) must be informed of the allegations made against them in sufficient detail to allow them to make a full answer and defense, which may include identifying the name of the Complainant.
- c) If the situation results in discipline, the disciplined employee may have the right to grieve under the applicable collective agreement. This may result in an arbitration hearing in which the Employer presents its case through witnesses, including the Complainant, to establish there was just cause for the discipline imposed.
- d) All parties to a complaint under this Policy will be given a full and fair opportunity to provide relevant information with respect to the complaint.
- e) The Employer or investigator shall advise employees of their right to be represented or accompanied by a Union representative throughout the course of a complaint and subsequent investigation.
- f) There shall be no actual or threat of retaliation, reprimand or reprisal against employees for exercising their rights in good faith under this Policy. Actual or threats of retaliation, reprimand or reprisal against employees for exercising their rights under this Policy in good faith may result in disciplinary action, up to and including termination.
- g) This policy does not restrict the Employer's authority and obligation to manage employee performance or take appropriate disciplinary action where appropriate.

Any Complainant who wishes to resolve a complaint through mediation or investigation must be prepared to be identified to the Respondent.

8. ASSISTANCE

An employee who experiences or witnesses workplace conflict including discrimination, bullying and/or harassment may seek assistance or advice from any of the following:

- a) their immediate supervisor, if appropriate;

- b) the departmental human resource manager;
- c) a manager, director or the deputy head in the same department or agency;
- d) the Director of Human Resource Management & Labour Relations, PEI Public Service Commission; or
- e) a union representative.

It should be recognized that management has an obligation to take follow-up action when instances of possible discrimination, bullying and/or harassment are brought to its attention.

Confidential assistance to employees for a wide range of concerns is available through the Employee Assistance Program.

9. PROCEDURE

9.01 The Employer shall assess each complaint or report of discrimination, bullying and/or harassment on an individual basis and shall determine the appropriate procedure for resolution at the lowest possible level, and where appropriate, in consultation with the employee or Complainant. The Employer reserves the right to initiate a formal review of the matter if there are sufficient concerns regarding the physical or psychological impact of the alleged discrimination, bullying and/or harassment on the employee(s) or the workplace.

9.02 Early & Informal Resolution Process

The objective of early and informal resolution is to resolve any situation or conflict as soon as possible in a fair and respectful manner, without having to resort to the formal complaint process. Every effort should be made to resolve problems early, with open communication and in a cooperative manner. The use of conflict resolution mechanisms such as coaching, counseling, and mediation can, in many instances, resolve issues and prevent situations from escalating to the point where filing a formal complaint is necessary.

It is important that the Complainant make the issue known to the Respondent as soon as possible in an attempt to resolve the problem.

- a) If the Complainant feels comfortable, they should do so directly,

either in person or in writing.

- b) If the Complainant feels uncomfortable, they should do so with help from a Supervisor, Manager, Director or from Human Resources.

If the problem is not resolved, the Complainant may meet with their supervisor, or with another person in authority whom they trust or seek advice from their union or from Human Resources.

9.03 Formal Resolution Process

If early and informal resolution is not successful or is considered inappropriate, individuals who have been subjected to behaviour that may constitute harassment have the right to file a formal complaint in accordance with this Policy.

Step 1 - Filing a complaint

The Complainant will submit a complaint in writing to the appropriate deputy head or chief executive officer, with a copy to the Director of Human Resource Management and Labour Relations, PEI Public Service Commission.

If a Complainant is not comfortable filing a complaint with the deputy head, the complaint may be filed directly with the Director of Human Resource Management and Labour Relations, PEI Public Service Commission.

The complaint should include as much detail as possible including the nature of the allegation; the name of the Respondent; the relationship of the Respondent to the Complainant (for example, supervisor, colleague); the date and a description of the incident(s); and, if applicable, the names of witnesses. The information provided should be precise and describe any attempts to resolve the situation.

Complaints should be submitted in as timely a manner as is comfortable for the Complainant, keeping in mind that the more time that elapses, the more difficult it is to substantiate the complaint. It is the Complainant's responsibility to check the timelines in any other forums they wish to pursue, for example, the PEI Human Rights Commission.

The deputy head shall acknowledge receipt of the complaint, and after

consultation with the Director of Human Resource Management and Labour Relations, PEI Public Service Commission, may enact interim measures which may be requested by either the Complainant or the Respondent and may be recommended by the Director of Human Resource Management and Labour Relations, PEI Public Service Commission. Such interim measures will not be inconsistent with the applicable collective agreement without agreement by the Union.

Upon evaluation of the complaint, if it is determined that a formal investigation is warranted, the complaint will proceed to Step 2.

Step 2 - Investigation

All investigations will be led by a team of one or two people, depending on the circumstances and the nature of the complaint. (i.e. the “Investigative Team”). The composition of the team will be determined by the PEI Public Service Commission, in consultation with departmental management. Factors such as experience and training in investigations, gender, and perception of bias will be considered when determining the composition of the Investigative team.

Contact will be initiated with the Complainant and the Respondent within 30 days of receipt of the complaint. A summary of the complaint shall be provided to the Respondent(s) in writing by the Investigative Team. During the interview process, the Investigative Team will obtain statements from the Complainant, the Respondent, and any identified relevant witnesses. The Employer will provide updates on the status of the investigation at a minimum of every 30-day interval.

At the conclusion of the investigation, the Investigative Team shall submit a final report stating whether, on a balance of probabilities, the complaint is substantiated. This report shall include an executive summary and may include recommendations. The report will be submitted to the deputy head and to the Director of Human Resource Management and Labour Relations.

The Employer, in consultation with the Director of Human Resource Management and Labour Relations, will notify the Complainant and the Respondent of the conclusion reached by the Investigative Team in the investigation, including any recommendations that are adopted by the Employer. The Employer will offer to meet with each party in person to review the findings, and a copy of the executive summary of the

investigation report shall be provided to the Complainant(s) and Respondent(s). The Employer will consult with the PEI Public Service Commission on the implementation of such recommendations, if any. If the Complainant and/or Respondent have union representation, the information provided to the Complainant and/or Respondent will also be provided to the Union, without prejudice to the right of the Union to be provided further information should a grievance arise from the matter.

Note: Records of a formal complaint and any supporting documentation will be kept in the confidential labour relations files and can only be accessed by the Director of Human Resource Management and Labour Relations, PEI Public Service Commission or designate, and those that need the file for investigative purposes. Only in the event of disciplinary or corrective action will any record of the complaint be kept on an employee's personnel file.

Step 3 - Resolution & Corrective Action

a) Remedies

Each case will require individual and impartial consideration. Remedies may include a range of actions. This will be considered by the Investigative Team before a recommendation, if any, is made in the report. The Employer will make every reasonable effort to remedy the effects of any discrimination, bullying and harassment and to ensure a positive work environment.

After reviewing the report submitted by the Investigative Team, the deputy head will consult with the Director of Human Resource Management and Labour Relations, PEI Public Service Commission, and departmental management to determine the corrective measures to be taken. Other remedial or disciplinary measures will follow when necessary. A key consideration of the Employer will be to make every reasonable effort to remedy the effects of any discrimination, bullying or harassment and to ensure a respectful work environment.

b) Mediation

When appropriate or requested by either party and at any time, the Employer or the Investigative Team will initiate a mediation or an Alternative Dispute Resolution procedure through the Department's human resource team, an

external provider or the Employee Assistance Program. Consensual mediation will require the agreement of the Complainant and the Respondent.

- The mediation process and resolution will be kept strictly confidential by all participants;
- Where a resolution is reached, the Complainant and the Respondent must agree in writing to the resolution, and the matter will then be considered concluded.

The referral should, where possible, include a written statement from the Complainant and the Respondent, which succinctly outlines the issue(s) in dispute.

c) Discipline

Any disciplinary action taken will be based on the circumstances surrounding the situation and the severity of the behaviour in accordance with the respective Collective Agreement (if applicable) and the *Civil Service Act* Regulations. Penalties can be very serious. In appropriate cases, suspension or dismissal can occur. In all cases where an employee is disciplined, documentation will be placed in the employee's personnel file.

Circumstances which could result in disciplinary action include, but are not limited to:

- a finding that discrimination, bullying and/or harassment has occurred;
- inaction of an employee with supervisory or managerial responsibilities who is aware of a situation of discrimination, bullying or harassment;
- a threat or retaliation against a person who lodges an informal or formal complaint, or who assists in any way with the administration of this Policy; and/or
- an unsubstantiated allegation that is made in bad faith or is retaliatory in intent.

9.04 Appeals

A decision made under this Policy may be grieved through the grievance procedure of the applicable Collective Agreement, to the Department/Commission/Agency deputy head; or to the Director of Human Resource Management and Labour Relations, PEI Public Service Commission. If the employee is an Excluded staff member, they may refer to the *Civil Service Act* Regulations, Part X ss. 36 to 41 and Part XI, ss 42 to 50. In the event of a conflict with the deputy head, another department head will be appointed to hear the grievance.

10. REFERENCES

Related Documents

Canadian Centre for Occupational Health & Safety

<https://www.ccohs.ca/oshanswers/psychosocial/bullying.html>

Civil Service Act Regulations

<https://www.princeedwardisland.ca/sites/default/files/legislation/C%2608G-Civil%20Service%20Act%20Regulations.pdf>

Employee Assistance Program

<https://psc.gpei.ca/files/EAP%20Handbook.pdf>

National Standard of Canada for Psychological Health and Safety in the Workplace

<http://www.mentalhealthcommission.ca/English/national-standard>

PEI Human Rights Commission

<https://www.peihumanrights.ca/>

Province of Prince Edward Island Diversity and Inclusion Policy

<https://www.princeedwardisland.ca/sites/default/files/publications/diversityandinclusionpolicyenglish.pdf>

UPSE Collective Agreement

<https://www.princeedwardisland.ca/en/publication/upse-collective-agreement-april-2022-to-march-2025>

Workers Compensation Board (Workplace Harassment Regulations)

https://www.princeedwardisland.ca/sites/default/files/legislation/o01-01-3-occupational_health_and_safety_act_workplace_harassment_regulations_0.pdf

Appendix A

Respectful Workplace Complaint Form

Complainant's Name:

Respondant's Name:

Department:

Department:

Position Title:

Position Title:

Phone:

Relationship to Complainant:

In your own words, please provide details of your complaint, including relevant dates, times, places, names of persons directly involved as well as witnesses. If there is not enough room on the form, you can attach supporting documents:

Please describe what actions you have taken to try to resolve this concern:

Please describe what resolution you are seeking:

Complainant Signature (line above)

Date (line above)

Note: Please refer to the *Respectful Workplace Policy* for more information around the Formal Resolution Process.

Completed form should be placed in an envelope marked “Confidential” and submitted to the appropriate Deputy Head, with a copy to the Director of Human Resource Management & Labour Relations, PEI Public Service Commission. If a complainant is not comfortable filing a complaint with the Deputy Head, the complaint may be sent directly to the Director of Human Resource Management & Labour Relations, PEI Public Service Commission.