

Respectful
Workplace Policy
for the Government
of Alberta

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Respectful Workplace Policy for the Government of Alberta

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RESPECTFUL WORKPLACE POLICY FOR THE GOVERNMENT OF ALBERTA

Policy statement

The Government of Alberta is committed to ensuring a strong, inclusive, healthy, and respectful workplace that is free of harassment, violence, and discrimination.

The Government of Alberta will not tolerate harassment or violence in the workplace from anyone and is committed to eliminating and doing everything reasonably practicable to prevent this inappropriate and unacceptable behaviour.

The employer will appropriately investigate any allegations of violence and harassment and take appropriate corrective action to address this conduct in accordance with this Policy.

This Policy forms part of the Government of Alberta's workplace violence prevention plan and harassment prevention plan for all departments.

Policy expectations and definitions

Employees are expected to comply with the requirements of this Policy. As no policy can anticipate and address all situations that may arise in the workplace, employees are expected to conduct themselves in accordance with the intent and spirit of this Policy, as enshrined in the Policy Statement.

Application of Policy

All employees are required to comply with this Policy when carrying out work for the Government of Alberta. All employees who experience or witness behaviour that appears to be contrary to this Policy are expected to report that behaviour in a timely way.

Consequences of Breach

An employee who is found to have violated this Policy may be subject to discipline, including termination of employment.

Nothing in this policy affects the employer's right to discipline employees who are found to have engaged in inappropriate or unacceptable workplace behaviour.

1. Work

“Work” means work that is carried out during regular working hours, including overtime and any other time where an employee is expected to be performing their employment duties. In addition, for the purposes of this Policy, work also means work-related activities or events that take place outside of regular business hours.

2. Workplace

“Workplace” as referred to in this Policy is any place where Government of Alberta business is carried out, and includes business travel, conferences and work-related social gatherings or events.

3. Workplace Harassment

Workplace harassment is objectionable or unwelcome conduct by an employee, that the employee knew or ought reasonably to have known would harm or cause offence, humiliation, degradation, or embarrassment, or which generally causes a hostile, intimidating, or abusive work environment or otherwise adversely affects the health and safety of an employee. Workplace harassment includes bullying, which is a form of harassment.

Harassment can also be a form of discrimination when it relates to a person’s race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, sexual orientation or political affiliation, or any other protected ground of discrimination included in the Alberta Human Rights Act or Collective Agreement.

While harassment often involves a pattern of behaviour, in some circumstances, a single incident may be severe enough to constitute harassment.

Reasonable conduct and feedback by supervisors and managers relating to the management and performance of employees is not workplace harassment.

4. Sexual Harassment

Sexual harassment means any single or repeated incidents of objectionable or unwelcome conduct of a sexual nature, that an employee knows or ought reasonably to know would cause offence, humiliation, degradation, embarrassment or would reasonably be understood to place a condition of a sexual nature on the employment relationship. Sexual harassment is a form of sex-based discrimination.

While harassment often involves a pattern of behaviour, in some circumstances, a single incident may be severe enough to constitute harassment.

5. Workplace Violence

Workplace violence is the threatened, attempted or actual conduct of an employee that causes or is likely to cause physical or psychological injury or harm and includes domestic or sexual violence.

6. Retaliation

Anyone who, in good faith, enquires about making a complaint, makes a complaint or participates in an investigation under this Policy is protected against retaliation, and should report any incidents of retaliation immediately by submitting a Respectful Workplace Complaint Form (Appendix 2). Retaliation consists of any deliberate action taken in response to an inquiry, complaint, or investigation under the Policy by an employee that adversely affects the employment relationship of the individual who experiences the retaliation. Retaliation will not be tolerated, and is considered a breach of the Policy. For examples of retaliation, please see the Guidelines.

7. Good Faith Requirement

All complaints made under this Policy must be made in good faith. If an investigation concludes that a complaint was made in bad faith, the complainant may be subject to discipline, up to and including termination. This is not meant to deter complainants from coming forward but rather to address complaints made outside of the spirit and intent of the Policy. A finding that a complaint was not substantiated does not mean that a complaint was made in bad faith. Whether a complaint is substantiated or not is a question of evidence. Whether a complaint is made in bad faith is a question of the complainant's motives for making the complaint.

8. Complainant

"Complainant" refers to an employee who files a complaint under the Respectful Workplace Policy.

9. Respondent

"Respondent" refers to an employee identified in a complaint as allegedly having violated the Respectful Workplace Policy.

10. Appellant

"Appellant" refers to a complainant or respondent who requests an appeal of an investigation conducted under the Respectful Workplace Policy.

How to make a complaint

Employees who witness or experience behaviour that they believe violates this Policy are expected to report this behaviour by making a complaint under this Policy. Although complaints may be made at any time, employees are strongly encouraged to come forward in a timely way because delays in making a complaint could result in challenges at the investigation and evidence-gathering stages of the process. More information on the process for filing a complaint can be found in the Respectful Workplace Issue Resolution Process (Appendix 1) and the Respectful Workplace Complaint Form (Appendix 2) as well as in the attached Policy Guidelines.

Anonymous Complaints

While employees may make anonymous complaints, the ability to address such complaints may be limited if there is not enough information to determine the appropriate next steps. Employees are encouraged to identify themselves when making complaints to ensure that the necessary details are obtained to appropriately address their complaint and so the person making the complaint can get assistance and support. The Respectful Workplace Complaint form (Appendix 2) can be used to file an anonymous complaint.

Confidentiality

Complaints, investigations, and appeals under this Policy are confidential. Employees who are interviewed in relation to a complaint, investigation or appeal must not discuss the allegations, evidence or other information they learn during the investigation, complaint or appeal process with anyone, including other parties or witnesses involved in the complaint, with the exception of their union representative, legal counsel, or unless the disclosure is otherwise permitted by law.

Confidentiality, including protecting the identity of parties and witnesses, must be balanced against the requirements of procedural fairness, and any disclosure obligations imposed by law.

The employer will not disclose the circumstances related to an allegation of violence or harassment, or the name of the complainant, respondent, or witnesses involved in a complaint, unless it is necessary to do so to investigate the complaint or take corrective action, or to inform the parties about the investigation results or other corrective action.

Where it is necessary for the employer to inform employees about a specific or general threat of violence or potential violence, the employer will only disclose the minimum amount of personal information that is necessary for that purpose.

Other forums

This Policy is part of a broader legal environment that includes other processes or forums such as those available under a Collective Agreement or legislation such as human rights, occupational health and safety, whistleblower legislation, and the *Criminal Code*. Nothing in this Policy prevents employees from filing a complaint in any other forum, or contacting law enforcement.

Investigations

All complaints will be dealt with promptly and in a confidential manner. An investigation may be initiated when the allegations, if proven, could constitute a violation of this Policy, and there is sufficient information upon which to base an investigation. Investigations will be concluded within 90 days from the date of the complaint, unless documented circumstances warrant an extension of time. In the case of a complaint being filed by a bargaining unit employee, the union must agree to the extension. Investigations will be conducted by an impartial investigator. All employees are expected to co-operate with investigations arising out of this Policy.

Upon completion of the investigation, Employee Relations Services and line-area management will make a determination about the appropriate next steps, including any disciplinary, corrective, or ameliorative action.

Should a situation arise in where new information becomes available after an investigation is completed, and that information could have a significant impact on the findings of the investigation, that information should be provided to the Director of Investigations to determine if the original investigation should be re-opened.

Appeals

A complainant or respondent may file a request to appeal an investigation if it is alleged that a serious breach of procedural fairness occurred during the investigation process. The request for appeal must be submitted in writing using the Request for Appeal Form (Appendix 3) within 21 calendar days of receiving the investigation outcome letter.

To avoid duplicative proceedings, when a grievance has been filed under Article 50.06 of the Collective Agreement the Request for Appeal may be refused once a decision at any level of the grievance process is made.

If the request for appeal is granted, the individual(s) reviewing the request for the appeal will:

- Affirm the investigation outcome; or

- Set aside the findings and, where appropriate, recommend a new investigation in relation to some or all of the allegations.

More information on the process for requesting an appeal can be found in the Request for Appeal Form (Appendix 3) as well as in the attached Policy Guidelines.

Further information

Additional information on this Policy can be found in the attached Policy Guidelines. Specific information about the process for filing a complaint can be found in the Respectful Workplace Issue Resolution Process (Appendix 1) and the Respectful Workplace Complaint Form (Appendix 2). Specific information about the process for requesting an appeal of an investigation decision can be found in the Request for Appeal Form (Appendix 3).

POLICY GUIDELINES

THE RESPECTFUL WORKPLACE POLICY FOR THE GOVERNMENT OF ALBERTA

Introduction

These Policy Guidelines provide additional information to assist employees in understanding the Respectful Workplace Policy, as well as processes related to filing a complaint and/or requesting an appeal of an investigation decision.

Workplace Harassment

The Respectful Workplace Policy says:

Workplace harassment is objectionable or unwelcome conduct by an employee, that the employee knew or ought reasonably to have known would harm or cause offence, humiliation, degradation, or embarrassment, or which generally causes a hostile, intimidating, or abusive work environment or otherwise adversely affects the health and safety of an employee. Workplace harassment includes bullying, which is a form of harassment.

Harassment can also be a form of discrimination when it relates to a person's race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, sexual orientation or political affiliation, or any other protected ground of discrimination included in the *Alberta Human Rights Act* or *Collective Agreement*.

While harassment often involves a pattern of behaviour, in some circumstances, a single incident may be severe enough to constitute harassment.

Reasonable conduct and feedback by supervisors and managers relating to the management and performance of employees is not workplace harassment.

Below is some additional information that may improve employees' understanding of workplace harassment.

Workplace harassment can include a broad spectrum of behaviours, and includes written and verbal conduct. Workplace harassment can also occur via texting, or the use of social or other online or electronic media. Conduct that in isolation may seem minor can, when repeated and considered cumulatively, result in harassment when it is engaged in repeatedly over time.

Some examples of workplace harassment include, but are not limited to:

- Abuse of power — the improper use of seniority or power to intimidate, demean or undermine someone;
- Threats, leering, intimidation or insults;
- Repeated negative or derogatory comments, gestures or actions;
- Frequent yelling or shouting;
- “Ganging up” on an employee in an intimidating manner;
- Condescending or paternalistic comments that undermine someone else’s work, reputation or confidence;
- Socially isolating, singling out another person or group, or deliberately excluding them from work related activities;
- Taunts or jokes that negatively target or isolate a person or group;
- Malicious gossip or spreading false rumors that result in embarrassment, humiliation or adversely impact an employee’s job performance or reputation ;
- Persistent, inappropriate unwelcome inquiries about an individual’s personal life;
- Intentionally sabotaging or interfering with someone’s work or ability to do their work;
- Intentionally withholding relevant information, failing to include an employee in relevant communication, or failing to provide an employee with the direction that is necessary to perform their essential job function;
- Derogatory comments, insults, jokes or inappropriate questions based on race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, sexual orientation or political affiliation, or other protected grounds of discrimination included in the *Alberta Human Rights Act*.

The following examples of legitimate workplace actions are not harassment when they are carried out in good faith:

- Direct supervision, including discussions about performance expectations
- Assignment of work, and direction on how it is to be accomplished
- Requests by supervisors for updates or status reports
- One-on-one discussions between managers, supervisors and their staff
- Decisions about approval or denial of time off

The above actions reflect the employer's legitimate right to run its operations and direct its workforce.

Sexual Harassment

The Respectful Workplace Policy says:

Sexual harassment means any single or repeated incidents of objectionable or unwelcome conduct of a sexual nature, that an employee knows or ought reasonably to know would cause offence, humiliation, degradation, embarrassment or would reasonably be understood to place a condition of a sexual nature on the employment or contractual relationship. Sexual harassment is a form of sex-based discrimination.

While harassment often involves a pattern of behaviour, in some circumstances, a single incident may be severe enough to constitute harassment.

Workplace sexual harassment can include a broad spectrum of behaviours. Some examples of workplace sexual harassment include, but are not limited to:

- Demands for sexual favors;
- Sexual advances, demands or placing sexual conditions by a superior or someone who could influence, or is reasonably perceived as being capable of influencing, another person's employment conditions or work opportunities;
- Displaying or posting sexually offensive materials;
- Inappropriate staring, leering, or whistling;

- Objectionable or unwelcome comments about a person's sexual orientation, gender identity or gender expression;
- Inappropriate or unwanted physical contact such as touching, patting or pinching;
- Comments, gestures and practical jokes of a sexual nature that cause discomfort or embarrassment;
- Persistent expression of sexual interest after being informed that such interest is unwelcome;
- A threat of reprisal or actual reprisal against someone who has refused a sexual invitation;
- Inappropriate comments or inquiries about a person's sex life;
- Actions of a sexual nature that are not directed at a particular person but create an offensive or hostile work environment;
- Unwelcome remarks about a person's physical attributes or appearance;
- Derogatory terms, taunts, threats or other language that is sexual or gender-based;
- Sexual assault or indecent exposure.

Workplace Violence

The Respectful Workplace Policy states:

Workplace violence is the threatened, attempted or actual conduct of an employee that causes or is likely to cause physical or psychological injury or harm and includes domestic or sexual violence.

Workplace violence can include a broad spectrum of behaviours. Some examples of workplace violence include, but are not limited to:

- Threatening behaviour such as shaking fists, destroying property or throwing objects;
- Verbal or written threats, including threatening to attack someone, sending threatening notes or emails that express an intent to inflict harm;

- Physical attacks such as hitting, shoving, pushing, kicking or throwing objects;
- Threats including coercion;
- Angry, violent outbursts;
- Domestic violence consists of a pattern of behaviour used by one person to gain power and control over another with whom that person has or has had a personal relationship. If acts of domestic violence, such as physical violence, emotional or psychological intimidation, verbal abuse, or stalking happen in or otherwise affect the workplace, such conduct can be addressed under this Policy.

Retaliation

The Respectful Workplace Policy says:

Anyone who, in good faith, enquires about making a complaint, makes a complaint or participates in an investigation under this Policy is protected against retaliation, and should report any incidents of retaliation immediately by submitting a Respectful Workplace Complaint Form (Appendix 2). Retaliation consists of any deliberate action taken in response to an inquiry, complaint, or investigation under the Policy by an employee that adversely affects the employment or business relationship of the individual who experiences the retaliation. Retaliation will not be tolerated, and is considered a breach of the Policy.

Some examples of retaliation include, but are not limited to:

- Unjustified demotion, discipline or termination of employment;
- Threats or other actions that result in intimidation;
- Social isolation by co-workers, supervisors or managers;
- Withdrawal of work or employment opportunities;
- Unjustified negative feedback about an employee's performance, including unsupported negative remarks in performance evaluations;
- Reduction in quality of work assignments or not getting picked for good assignments;
- Negative or derogatory comments.

What makes the behaviour listed above retaliatory in nature is that the retaliator is deliberately engaging in the conduct in response to an action that an employee has taken in relation to this Policy, for example, by making a complaint, or participating in the investigation.

How to make a complaint (see Appendix 2)

Employees who witness or experience behaviour that they believe violates the Respectful Workplace Policy for the Government of Alberta are expected to report this behaviour by making a complaint. Where an employee otherwise notifies the employer of conduct that could violate the Policy, the employer is required to keep a written record of the allegations and follow the process outlined within the Policy.

Respectful Workplace Issue Resolution Process (see Appendix 1):

- A complaint may be filed in accordance with the Respectful Workplace Issue Resolution Process outlined within Appendix 1. After an initial review of the complaint, it may proceed to an investigation or for follow-up through fact-finding meetings, during which individuals with relevant information to share may be interviewed. The complainant will be advised of which process their complaint is proceeding to in writing.
- Once the appropriate process has been completed, the findings will be reviewed by the employer and a decision will be made regarding appropriate next steps.
- The findings of an investigation will be reviewed with both the complainant and the respondent.

If you are a bargaining unit member, any grievances relating to the Respectful Workplace Policy must be filed in accordance with the Collective Agreement. Timelines for filing a grievance do not affect your ability to initiate a complaint under the Policy. However, an employee who has filed a grievance under Article 50.06 may not also file an appeal under this Policy unless the appeal relates to new evidence that could have a significant impact on the findings.

Investigations

The Respectful Workplace Policy says:

All complaints will be dealt with promptly and in a confidential manner. An investigation may be initiated when the allegations, if proven, could constitute a violation of this Policy, and there is sufficient information upon which to base an investigation. Investigations will be concluded within 90 days from the date of the complaint, unless documented circumstances warrant an extension of time. In the case of a complaint being filed by a

bargaining unit employee, the union must agree to the extension. Investigations will be conducted by an impartial investigator. All employees are expected to co-operate with investigations arising out of this Policy.

When an investigation is conducted, the investigator will:

- Interview individuals with relevant information;
- Gather and review documents, records, or other evidence relevant to the investigation;
- Prepare an investigation report;
- Provide findings about whether there was a breach of the Respectful Workplace Policy;
- The complainant and the respondent will be told the outcome of the investigation, including whether the Policy was breached. Information relating to complaints will be shared in accordance with the Confidentiality section of the Policy.

Appeals (see Appendix 3)

A request for appeal may be submitted if it is alleged that a serious breach of procedural fairness occurred in the process that was followed in the investigation. Examples of a breach of procedural fairness may include the following:

- The investigator failed to consider or collect obviously crucial evidence, including failing to interview key witnesses or gather important records or other key evidence. A demonstrated bias or conflict of interest on the part of the investigator that compromises the integrity and objectivity of the investigation.
- Failing to provide a complainant or respondent with the opportunity to meaningfully address the allegations or respond to relevant evidence gathered during the investigation;
- Refusal to reopen an investigation based on new information becoming available that was not available during the investigation and that could have a significant impact on the findings in the investigation

A request for an appeal of an investigation can be made by completing and emailing the Request for Appeal Form (Appendix 3) to rwp.appeal@gov.ab.ca.

- When a request for appeal is received, it will be reviewed and triaged by Employee Relations Services.
- If the initial triage of the request for appeal determines that the allegations, if proven, could constitute a serious breach of procedural fairness, the Request for Appeal will be directed to an appeal body.
- The request for appeal will be reviewed by the appeal body and, if warranted, submissions will be invited from the complainant and/or respondent involved in the investigation.
- Where appropriate, the full investigation report will be provided to the appeal body along with other information relevant to the request for appeal.
- The appeal body may question any parties, witnesses or the investigator where appropriate.
- The appellant will be advised in writing as to the result of their request for appeal and any relevant next steps (if applicable).
- Steps will be taken to ensure confidentiality throughout the appeal process.

Support for employees

Bargaining unit employees can seek the support and advice of their union representative in relation to a complaint under this Policy. Bargaining unit employees also have a right to union representation if they are required to answer questions in an investigation, whether they are the complainant, the respondent, or a witness.

The Employee and Family Assistance Program (EFAP) is a confidential and voluntary support service that can help employees when dealing with work, health or life concerns. This program provides counselling sessions with a professional, to help employees deal with the concern. The EFAP provides employees with immediate and confidential support and can be accessed by calling 1-800-268-5211 or contacting them at workhealthlife.com.