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Approval Date	<i>May 18, 2021</i>
Revision Date	<i>March 17, 2021</i>
Approved by	<i>Chair, Board of Trustees</i>
Approver Signature	
Scheduled Review Date	<i>May 2024</i>
Cross- Reference	<i>This policy replaces: 2-420 Harassment- Free Workplace Policy, approved March 9, 2020.</i>

PURPOSE


The purpose of this Policy is to:

- promote and maintain a respectful and safe and healthy work environment that is free from harassment;
- define harassment, which for the purpose of this Policy includes: Abuse of Power, Discriminatory Harassment, Sexual Harassment and Violence as those terms are defined herein;
- communicate broadly that harassment in the workplace will not be tolerated;
- clarify the roles, rights and responsibilities of key stakeholders; and,
- provide a process for receiving and addressing complaints of harassment in the workplace.

SCOPE

This Policy applies to all employees, physicians, students, volunteers and agents of Central Health (collectively referred to herein as “**employee**” or “**employees**”) and to all interactions these employees will have within Central Health’s work environment, including interactions with patients, residents, clients, students, volunteers, visitors, contractors, other employees and all others affiliated. This Policy also applies to any activity or communication arising from the work environment which takes place outside of same or outside of working hours including but not limited to the following:

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- At work-related social functions;
- During work-related travel or conferences;
- Over the telephone or social media, if the conversation is work-related; or
- Elsewhere, as a result of work-related responsibilities or a work-related relationship.

This Policy is in addition to and is not a substitution for any rights an individual may have, and is not intended to discourage an employee from exercising their rights available under the following:

- any contractual obligation or agreement;
- the *Human Rights Act, 2010* (Newfoundland and Labrador);
- the *Canadian Charter of Rights and Freedoms*;
- the *Criminal Code* (Canada); or
- any other law of the Province or Canada.


Where an allegation of harassment is made against an employee or agent of an external organization, the manner of reporting, investigating and disclosing the complaint will be dealt with in accordance with that organization's policies.

Where an allegation of harassment is made against a physician or medical practitioner, the manner of investigating the complaint will be dealt with in accordance with this Policy and the Medical Staff By-Laws. Where there is conflict between this Policy and the Medical Staff By-Laws, the Medical Staff By-Laws will prevail.

Issues regarding disrespectful or uncivil behavior, or conflict between individuals which does not constitute harassment under this Policy but are nonetheless inappropriate for the workplace are addressed in the Civility & Respect Policy 2-340.

This Policy is to be read in conjunction with relevant collective agreements, management and management support policies and Medical and Non-medical Staff By-Laws.

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This Policy does not prescribe the policy or process for managing allegations of harassment against employees of Central Health by patients, residents, clients, or visitors. These situations would fall under Central Health's Responding to Complaints Policy.

DEFINITIONS


Abuse of Authority	Harassment which occurs through a use of authority serving no legitimate work purpose.
Discriminatory Harassment	Harassment that is based on an actual or perceived prohibited ground of discrimination as outlined in the <i>Human Rights Act, 2010</i> , such as race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income, or political opinion.
Harassment	<p>Harassment means inappropriate, vexatious conduct or comment by a person to an employee that the person knew, or ought to have known would cause the employee to be humiliated, offended or intimidated. Harassment may be intended or unintended.</p> <p>Harassment will usually involve a series of incidents over a period of time; however, a single incident may constitute harassment if it would be considered egregious or severe by a reasonable person; taking into account the circumstances of the incident.</p> <p>Examples of possible harassment include, but are not limited to:</p> <ul style="list-style-type: none"> • Verbal abuse, yelling, and/or making threats; • Making degrading or offensive comments, gestures, or jokes; • Spreading malicious gossip or rumours; • Inappropriate communication through social media, e-mail, or instant messaging; • Actual or threatened physical contact or assault; or

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	<ul style="list-style-type: none"> • Bullying or intimidation (e.g. sabotaging work equipment, interfering with someone’s ability to perform their duties, exclusionary practices, etc.). <p>Harassment does not include any reasonable action taken by Central Health or a manager or supervisor relating to the management and direction of employees or the workplace. Some examples of what does not constitute harassment includes but is not limited to:</p> <ul style="list-style-type: none"> • Day to day management or supervisory decisions involving work assignments; or • Normal exercise of supervisory responsibilities including performance evaluation, training, counselling and disciplinary action.
Sexual Harassment	<p>Harassment which is gender-based or of a sexual nature that is known or ought reasonably to be known is unwelcome, likely to cause offence, humiliation or intimidation or might be perceived by a person as placing a condition of a sexual nature on employment or the opportunity for training, promotion or another work-related advantage.</p> <p>Examples of possible sexual harassment include, but are not limited to:</p> <ul style="list-style-type: none"> • Repeated unwelcome social invitations; • Unwanted touching; • Leering or inappropriate staring; • Displaying or circulating sexually suggestive materials (e.g. jokes, messages, posters, pictures); • Comments about a person’s clothing, body, personal appearance, and/or habits; • Gender-based insults; • Derogatory conduct toward a person based on their conformity or non-conformity with traditional gender-role stereotypes;

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	<ul style="list-style-type: none"> • A direct or implied threat of reprisal for refusing to comply with a sexually oriented request; or • Engaging in sexually charged discussions in the workplace (e.g. questions or comments about sexual activities).
Violence	The attempted or actual exercise of physical force to cause injury to an employee and includes threatening statements or behaviour which gives an employee reason to believe that he or she is at a risk of injury.

POLICY STATEMENT(S)


Harassment in any form at the work environment or arising from the work environment is strictly prohibited. All employees are entitled to perform their duties in a harassment-free work environment.

Central Health is committed to ensuring employees are treated with respect, dignity and fairness in the work environment. All individuals in the work environment, including its union groups, share a responsibility for creating a safe, civil and respectful workplace and are expected to exhibit honesty, integrity, and a high standard of personal conduct that welcomes differences, promotes diversity, and provides a safe and healthy workplace for all.

Central Health is committed to eliminating where possible, or otherwise, minimizing the hazard of harassment in the work environment.

All employees are entitled to a safe and accessible resolution process for complaints of harassment made under this Policy. The principles of justice, fairness, integrity, and impartiality will be applied in investigation that arises under the scope of this Policy to ensure that the rights, responsibilities, and obligations of all individuals are respected.

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PRIVACY & CONFIDENTIALITY

Any information obtained relating to this Policy, including personal information, will not be disclosed unless it is necessary for the purpose of an investigation, corrective action relating to the complaint, or where required by law.

All individuals are required to maintain confidentiality when involved in processes under the Policy. Those who are found to have breached confidentiality may be subject to disciplinary action, up to and including, termination of employment.

FALSE ALLEGATIONS

The Policy must never be used to bring a false complaint. Allegations that are found to involve a falsehood, malicious intent, or made in bad faith will not be tolerated and will be considered a violation of the Policy. Employees who have made such allegations may be subject to appropriate disciplinary action, up to and including termination of employment. A complaint will not be deemed to be false, malicious, or made in bad faith solely because it is unfounded.


REPRISAL

Reprisal or retaliation against any employee who has alleged harassment, made a complaint, or participated in any proceedings under the Policy in good faith is a violation of this Policy and may result in disciplinary action, up to and including termination of employment.

REPRESENTATION

Participants and witnesses may be accompanied by a support person of their choosing when attending meetings regarding a complaint, provided the person is not a witness to the issue and provided the person selected is not in a potential conflict of interest position. The support person shall not interfere with the proceedings in any way. The support person's primary role is to provide support and guidance to the person being interviewed. Support persons are expected to maintain the privacy and confidentiality of the parties involved.

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Bargaining unit employees are entitled to union representation as outlined in their respective collective agreements.

In no instance shall Central Health be responsible for the cost of legal counsel and/or other representation retained by an employee.

RECORDS MANAGEMENT

Unless otherwise set out in this Policy, all records of meetings and other relevant material or information gathered with respect to this Policy will be maintained by People and Culture. All records are managed in accordance with approved records retention and disposition schedules and the *Management of Information Act*, where applicable.

Following the conclusion of a complaint and any associated corrective and/or disciplinary action pursuant to the Policy, Central Health employees and/or the Investigator shall provide copies of all records created or gathered in relation to the process to the Senior Director, People and Culture or designate for file review, audit, and closure purposes.

In the event that an Access to Information Request is received in relation to this Policy, information will be released in accordance with the *Access to Information and Protection of Privacy Act, 2015* or as otherwise required by law.


Complainants and Respondents are entitled to receive copies of all statements and relevant documentary evidence collected during an investigation. Witnesses shall only be entitled to receive a copy of their statement.

RESPONSIBILITIES

Employees

All employees are expected and required to conduct themselves in accordance with the standards and principles established by this Policy.

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Employees are required to comply with this Policy; not engage in harassment; report observations or experiences of harassment in accordance with this Policy; participate in education and training with respect to harassment prevention and this Policy; cooperate in any investigation; and maintain confidentiality as required by this Policy.

Bystanders are employees who witness but do not actively participate in behavior that contravenes this Policy. Bystanders have a responsibility to take appropriate action and report harassment in accordance with this Policy.

Managers and Supervisors

Managers and supervisors, in addition to their responsibilities as employees, are required to ensure the health and safety of employees, including their obligation to apply and comply with this Policy; take reasonable measures to ensure a harassment-free work environment is provided, regardless of whether a complaint has been raised; and ensure that all employees falling under their supervision have knowledge of and understand this Policy. Failing to respond adequately to issues of harassment is, in itself, a violation of this Policy.


Central Health

As the employer, Central Health will educate employees about this Policy and harassment prevention and promote a civil and respectful work environment. Central Health acknowledges that disrespectful behavior and harassment, which includes violence, exists on a continuum of behaviors and that incivility and disrespectful behavior can be a precursor to harassment.

Central Health will protect employees from retaliation and provide support to employees should harassment occur.

To identify potential risks for harassment, which includes violence, Central Health will complete a risk assessment using the process outlined in Section 22.1 of the *Occupational Health and Safety Regulations, 2012*. Central Health will identify and implement the appropriate controls to mitigate that risk, which may include consultation with various departments as well as WorkplaceNL or the

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Occupational Health and Safety Division of the Government of Newfoundland and Labrador

Central Health is responsible for fostering a harassment-free work environment. In this regard, agents of the employer (e.g. Director, Manager, Supervisor, or Physician Leader) may become informed of situations involving allegations of harassment, without a formal complaint being made. In the absence of a formal complaint, Central Health retains the right to proceed with appropriate actions and/or interventions in accordance with this Policy as if a formal complaint of harassment was made.

Central Health also reserves the right, in appropriate circumstances and in its sole discretion, to hold a complaint in abeyance pending the resolution of any related judicial or quasi-judicial proceedings (e.g. human rights complaint, civil action, arbitration, etc.).

Matters that have previously been investigated by Central Health will not be reinvestigated, except in circumstances where it is deemed necessary, in Central Health's discretion.

Central Health will review this Policy on an annual basis or as required, in consultation with the Occupational Health and Safety Committee.


PROCEDURE

COMPLAINT PROCESS

Personal Harassment Complaints

Incidents of harassment should be reported as soon as possible, but no later than **twelve months** following the last incident of harassment. This time limit may be extended at the sole discretion of Central Health where there is a reasonable justification for not bringing the incident forward within the prescribed time limit.

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An employee who reports an allegation of harassment is referred to as the Complainant and the individual(s) alleged to have engaged in the harassment (i.e. the alleged harasser) is/are referred to as the Respondent(s).

Informal Resolution

In certain circumstances, it may be appropriate for an employee who believes they have experienced or observed harassment to address the behaviour informally. Informal resolution approaches may offer employees a greater influence over the resolution process and the outcome, and often have a focus on repairing the relationship or restoring a respectful work environment. Central Health’s Respectful Workplace Coordinator (“**RWC**”) may provide assistance to employees in this regard. Assistance from the RWC may be in the form of consultation, personal support, problem solving, help with assertiveness skills, or a discussion about the informal resolution choices available.


One or more of the following informal resolution options are available to employees:

1. **Individual Intervention:** An employee who has experienced or observed harassment in the workplace may choose to approach the alleged harasser, either in person or in writing, to advise that the behavior is objectionable and unwelcome and request that the behavior stop.
2. **Management Intervention:** An employee who has experienced or observed harassment in the workplace may choose to have a manager or supervisor approach the person who caused the harassment to advise that the behavior is unwelcome. If the alleged harasser is the manager, then the individual may request intervention by the next level of management.

Where this option is deemed appropriate, the manager may consult with People and Culture for assistance.

3. **Conflict Coaching:** Conflict coaching is one-on-one support to help an employee deal with a conflict situation. The employee is encouraged to build on their own skills to constructively respond to situations of conflict and/or explore available avenues of resolution. The coach does not provide advice,

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but will offer objective, non-judgmental feedback and will ask questions so that employees are given the opportunity to reflect on their approaches and consider ways to increase their effectiveness in dealing with a conflict situation.

Formal Resolution

Whether or not one of the above informal resolution options has been pursued, an employee who believes they have experienced or observed harassment in the workplace must report the harassment. In doing so, employees are required to report the harassment to their supervisor or manager and complete the online Harassment Complaint Form to submit the complaint. If the supervisor or manager is the alleged harasser, the complaint should be reported directly to the Senior Director, People and Culture or designate.


Where the alleged harasser is the Senior Director, People and Culture, Central Health will ensure a designate is put in place to perform the same role as outlined herein. The designate shall not be an individual who reports to the alleged harasser.

Complaints of harassment must be in writing through the Harassment Complaint Form; verbal complaints will be accepted only where they are subsequently confirmed in writing via the Harassment Complaint Form. In the complaint, the employee provides details such as what happened, when it happened, where it happened, how often, and who else was present (if applicable).

The Senior Director, People and Culture or designate shall provide or facilitate any reasonable assistance that may be required for the completion of a complaint. Where employees are, for any reason, unable to provide a written complaint, assistance can be provided by the Senior Director, People and Culture or designate who may complete the Harassment Complaint Form on behalf of the employee. In such circumstances, the employee shall be required to review and sign the completed Harassment Complaint Form.

After a complaint has been received, it will be assigned, **within five days**, to either: (i) an internal panel of two representatives of Central Health who have knowledge in harassment and/or harassment investigations; or (ii) to an external

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investigator (either of which will be referred to herein as the “**Investigator**”). The Investigator will be provided with a copy of this Policy and a copy of the complaint.

Within five days from the date of their assignment, the Investigator will determine whether the complaint falls within the scope of the Policy and/or potentially meets the definition of harassment, warranting further action under this Policy and commence the investigation.

Following the Investigator’s assessment, meetings will be scheduled with the Complainant and the Respondent, as follows:

Meeting with Complainant:

The Senior Director, People and Culture or designate will, **within five days of the receipt of the complaint**, acknowledge the complaint in writing and schedule a meeting with the Complainant, to take place following the Investigator’s assessment as noted above, to review the outcome of the Investigator’s assessment as to whether the complaint will be investigated pursuant to this Policy (see below).


During the meeting, the Complainant will also be informed of the processes outlined herein.

If the complaint does not fall within the scope of the Policy or the conduct in question does not meet the definition of harassment, as determined by the Investigator, the Complainant will be notified of same and will be referred to the RWC to discuss the resolution options outlined in Civility and Respect Policy 2-340, where appropriate. Following this meeting, written communication will be provided to the Complainant to reiterate these options.

Meeting with Respondent:

The Senior Director, People and Culture or designate will also, **within five days of the receipt of the complaint**, notify the Respondent of the existence of a complaint and to schedule a meeting between the Senior

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Director, People and Culture or designate and the Respondent, to take place following the Investigator’s assessment as noted above. The Respondent’s manager will also be informed of the existence of the complaint **within five days of the receipt of the complaint.**

During the meeting, the Respondent will also be provided with a copy of the written complaint and will be informed of the processes outlined herein.

If the complaint does not fall within the scope of the Policy or the conduct in question does not meet the definition of harassment, as determined by the Investigator, the Respondent will be notified of same and will be referred to the RWC to discuss the resolution options outlined in Civility and Respect Policy 2-340, where appropriate. Following this meeting, written communication will be provided to the Respondent to reiterate these options.


Please be advised that at any point during the complaint or investigation process, employees are encouraged to seek the confidential support of the RWC or Central Health’s Employee and Family Assistance Program (EFAP).

Allegations of harassment against physicians or medical practitioners are also subject to the Medical Staff By-Laws, which necessitates some variations in procedure as outlined therein.

Anonymous Complaints

Anonymous complaints will not be addressed under the Policy but may be subject to a workplace investigation at the discretion of Central Health. Anonymity cannot be guaranteed when a complaint is filed as a Respondent has the right to know and to respond to any allegations that have been made against them.

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INVESTIGATION PROCESS

The investigation process involves an impartial third-party investigator(s) who will complete an investigation to determine whether there has been a breach of the Policy. The investigation is a fact-finding process focused on what happened and determining whether harassment occurred.


The investigation process is conducted following the principles of procedural fairness and natural justice. Principles considered by investigators in making investigation findings include, but are not limited to, the following:

1. The burden of proof lies with the person making the allegation(s);
2. The standard of proof is a balance of probabilities (i.e. it is more likely than not that the allegations are founded/unfounded);
3. Corroborating evidence is relevant, but is not required to make a factual determination;
4. Issues of credibility may be considered and relied upon by the Investigator;
5. Admissions do not require proof and can be assumed as fact;
6. Denials will be considered in the context of relevant evidence;
7. When weighing evidence, facts are more likely when actions and statements are consistent and less so when such consistency is absent.

Where it is decided by the Investigator that an investigation is appropriate, the following process will be followed:

- The Respondent will be provided with a copy of the complaint and will be given a full opportunity to respond to the complaint, in writing;
- The Respondent's response will be provided to the Complainant, who will be given a full opportunity to reply, in writing;
- The Investigator interviews the Complainant and obtains any supporting documentation;
- The Investigator discloses the Complainant's evidence and supporting documentation to the Respondent, interviews the Respondent and obtains any supporting documentation;

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- The Investigator identifies witnesses, interviews witnesses, prepares written statements, and collects supporting documentation, if applicable;
- The Investigator may take other actions deemed to be necessary by the Investigator for the purpose of the investigation (e.g. site visit, requests for information from third party, confirmation of records, etc.);
- The Investigator discloses all statements and relevant evidence to the Complainant and the Respondent and provides each with an opportunity to respond;
- The Investigator prepares a draft report and submits it to the Senior Director, People and Culture or designate who will review the report to ensure compliance with the mandate and that any documentation referenced in the report has been appended. Provided the draft report meets these criteria, it is then finalized;
- The investigation report is to be finalized **within 90 days** of the Investigator's determination that the Policy applies to the complaint of harassment;
- The Senior Director, People and Culture or designate submits the investigation report to the manager(s) for the Complainant and Respondent;
 - **Within 15 days** from the receipt of the investigation report, the manager(s), in consultation with People and Culture, will make a decision as to whether to accept the investigation findings in whole, in part, or at all;
 - Determine necessary corrective and/or disciplinary actions, if applicable; and
 - Advise the Complainant and Respondent of the investigation findings and any actions to be taken as a result of the investigation, in writing.

Timelines

For the purpose of this Policy, a day means a business day and does not include statutory holidays.

Bargaining unit employees are advised to also consult their respective collective agreement and, where there is a conflict in timelines, the collective agreement shall prevail.

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Every effort will be made by Central Health to ensure that the investigation is carried out within the timelines outlined herein, however, there may be exceptional circumstances, as determined by Central Health, where delays occur. Exceptional circumstances mean circumstances that are beyond the control of Central Health which interfere with the ability to comply with the timelines outlined herein. In such cases, the Complainant and the Respondent will be advised in writing of the delay and the impact of the delay on the timelines (e.g. suspension or delay in timelines).

Outcome of the Investigation

If, the allegation(s) made against the Respondent are founded, the Respondent may be subject to disciplinary action, up to and including termination of employment.

RELATED RESOURCES

Canadian Centre for Occupational Health & Safety (CCOHS), 2021. Violence and Harassment in the Workplace. Retrieved from:

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

Civility & Respect Policy 2-340.

Harassment-Free Workplace Policy, Human Resources Secretariat, Provincial Government of Newfoundland and Labrador. Retrieved from:

https://www.exec.gov.nl.ca/exec/hrs/working_with_us/harassment_free_workplace.html

Occupational Health & Safety Regulations, 2012 (Amendment), OC 2019-017.

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