

STATEMENT OF POLICY AND PROCEDURE			
SUBJECT:	WORKPLACE HARASSMENT	IUOE LOCAL 793 P&P No.	HS 7
DISTRIBUTION:	ALL EMPLOYEES	DATE OF POLICY:	January 1, 2019
REPLACES:	P & P No. 1	EFFECTIVE:	January 1, 2019
DATE:	June 2018	PAGE:	1 of 5
ISSUED BY:	INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 793		

1 POLICY

- 1.01 The International Union of Operating Engineers, Local 793 is committed to providing a work environment that is free of harassment of any nature and one in which all individuals are treated with respect and dignity. Harassment in any form undermines the atmosphere of trust and respect that is essential to a healthy work environment.
- 1.02 The IUOE Local 793 has adopted a “zero tolerance” policy toward harassment in the workplace or during work-related functions and/or activities. Workplace harassment will not be tolerated from any person in the workplace including those employed by the IUOE Local 793 and OETIO, individuals associated with the IUOE Local 793 and OETIO and all other persons entering the IUOE Local 793 workplace.
- 1.03 Harassment is prohibited by the Ontario Human Rights Code and the Occupational Health and Safety Act. Harassment, in most extreme forms, can be a criminal offence under Canada’s Criminal Code.
- 1.04 Everyone in the workplace must be dedicated to preventing workplace harassment. Managers, supervisors, and workers are expected to uphold this Policy and will be held accountable by the Employer.
- 1.05 Workers are encouraged to report any incidents of workplace harassment without fear of threat, retaliation or reprisal. Appropriate action will be taken against any person who takes any reprisal against a person who reports workplace harassment.
- 1.06 Management will investigate and deal with all concerns, complaints, or incidents of workplace harassment in a fair and timely manner while respecting individuals’ privacy as much as possible.
- 1.07 Any employee found to have violated this Policy shall be subject to disciplinary action up to and including termination of employment. It is equally recognized that frivolous, vexatious or malicious complaints are equally a violation of this Policy and are equally subject to disciplinary actions.
- 1.08 Notwithstanding this Policy, every person who experiences harassment continues to have the right to seek assistance with the Human Rights Tribunal of Ontario on a matter related to Ontario’s Human Rights Code within one year of the last alleged incident. A worker also retains the right to exercise any other legal avenues that may be available.
- 1.09 This Policy is not intended to limit or constrain the reasonable exercise of management functions, such as performance reviews, counselling or disciplinary actions, in the workplace.
- 1.10 This Policy will be posted in all IUOE Local 793 workplaces
- 1.11 The Workplace Violence Policy should be consulted whenever there are concerns about violence in the workplace.

2 PURPOSE

- 2.01 The purpose of this Policy and Procedure is to provide guidelines for employees who have been harassed or discriminated against or who have witnessed harassment and wish to attempt to resolve the problem.
- 2.02 This Policy and Procedure will implement and illustrate the complaint process for employees who have been harassed.

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3 SCOPE

- 3.01 This Policy and Procedure applies to all employees and individuals associated with the IUOE Local 793 and related and/or associated entities as well as all other persons entering the IUOE Local 793 workplace.

4 RESPONSIBILITY

- 4.01 All employees of the IUOE Local 793 have a responsibility to play a part in ensuring an environment free from harassment. This means not engaging in, allowing, condoning or ignoring behaviour contrary to this Policy. No employee is required to tolerate harassment or abuse for any reason at any time. No one has the right to harass, violate, or abuse anyone else, at work or in any situation related to employment. All employees are expected to uphold this Policy and will be held accountable by the Employer.
- 4.01.1 Workers are expected to report any incidents of workplace harassment to a member of the Designated Advisor Committee without fear of threat, retaliation or reprisal. Should an employee have a legal court order (ie. restraining order or "no-contact" order against another individual), the employee is to notify and to supply a copy of that order to the Human Resources Manager. Such information shall be kept confidential. All individuals are responsible for respecting the confidentiality of anyone that may be involved in a complaint.
- 4.01.2 All employees are responsible for attending any training or information sessions provided by the IUOE Local 793 to eliminate harassment in the workplace.
- 4.01.3 All employees are expected to cooperate as required during investigations related to workplace harassment.
- 4.02 All individuals associated with the IUOE Local 793 and OETIO and all other persons entering the IUOE Local 793 workplace are expected to conduct themselves in accordance with this Policy.
- 4.03 Each manager and supervisor is responsible for fostering a safe working environment free from harassment and abuse. Managers and supervisors must set an example for appropriate workplace behaviour, and must deal with situations immediately upon becoming aware of them, regardless of whether there has been a complaint.
- 4.04 The Designated Advisor Committee has the responsibility to investigate and deal with all concerns, complaints or incidents of workplace harassment in a fair and timely manner while respecting individuals' privacy as much as possible.
- 4.05 The Employer has the responsibility to take measures to prevent harassment, provide procedures to handle complaints, to resolve problems and to remedy situations when a violation of this Policy occurs. The IUOE Local 793 will continue to educate all employees and increase awareness of this issue throughout the organization.
- 4.06 The JOHSC is responsible for the annual review of this Policy and conducting regular risk assessments ensuring compliance with applicable legislations. The JOHSC will recommend required changes to the Employer as necessary.
- 4.06.1 The JOHSC will make recommendations to the Employer for developing, establishing and providing training in harassment prevention measures and procedures.

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5 DEFINITIONS

- 5.01 **Harassment** takes many forms but can generally be defined as any interaction between individuals that can be characterized as unwelcome, intimidating, insulting, humiliating, malicious, degrading, bullying, offensive or violent. Harassment from different sources will result in different dynamics that may require different reporting and investigation procedures.
- 5.02 **Workplace harassment** is defined as engaging in a course of vexatious comment or conduct against a worker in a workplace this is known or ought reasonably be known to be unwelcome. This definition is broad enough to include “psychological” or “personal” harassment.
- 5.03 Prohibited grounds under the Ontario Human Rights Code are sex, race, ancestry, place of origin, colour, ethnic origin, citizenship, religion, handicap, age, family status, marital status, sexual orientation, receipt of public assistance or record of offences.
- 5.04 **Sexual harassment** is defined as unwelcome sexual advances, requests for sexual favours or other verbal or physical conduct of a sexual nature when:
- submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual; or
 - such conduct has the purpose or effect of interfering with an individual’s performance; or
 - such conduct creates an intimidating, hostile or offensive environment
- 5.05 **Complainant** is an individual who believes they have been harassed.
- 5.06 **Respondent** is an individual who is alleged to be the harasser.
- 5.07 **“Workplace”** means in or on the property of any of the IUOE Local 793 or OETIO offices, or away from any of the IUOE Local 793 or OETIO offices if the employee is engaged in work-related activities. The workplace also extends to sites where employees are involved in work-related functions and/or activities.
- 5.08 **“Employer”** means IUOE Local 793 and related and/or associated entities.
- 5.09 **“Local 793”** when referenced in this document signifies the employer and encompasses all IUOE Local 793 and related and/or associated entities.

6 REFERENCES AND RELATED STATEMENTS of POLICY and PROCEDURE

- 6.01 Designated Advisor Committee
- Designated Advisors
 - [Lloyd Nakaza, Human Resources Manager](#)
 - [Ken Lew, Director of Operations](#)
 - Associate Advisor
 - Joe Redshaw, Director of Social Services

If individuals are not comfortable utilizing designated advisors they may consult with the Associate Advisor who will present details to the Designated Advisors on their behalf.

- 6.02 Ontario Human Rights Code
- 6.03 Ontario Occupational Health and Safety Act and its Regulations

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- 6.04 Workplace Safety and Insurance Act and its Regulations
- 6.05 Canada's Criminal Code
- 6.06 Canada Labour Code
- 6.07 IUOE Local 793 P&P No. 1 – Code of Conduct
- 6.08 IUOE Local 793 P&P No. HS8 – Workplace Violence

7 PROCEDURE

- 7.01 A person who experiences harassment in the workplace should consult with a member of the Designated Advisor Committee as soon as possible after the occurrence.
- 7.02 Members of the Designated Advisor Committee shall inform the complainant of:
 - the options for pursuing an informal resolution of his/her complaint
 - the right to lay a formal written complaint under this Policy when an informal resolution is inappropriate or not feasible
- 7.02.1 Informal Resolution
 - a) Informal resolution may be achieved in enlisting the assistance and support of a Designated Advisor Committee member.
 - b) The Designated Advisor will obtain details surrounding the incident of harassment.
 - c) The Designated Advisor will determine if further investigation is required before moving towards resolution actions.
 - d) The Designated Advisor will consult with the Complainant on course of action.
 - e) The Designated Advisor will meet with the Respondent to discuss the complaint (attendance of the Complainant is voluntary and will be discussed and determined at the consult level outlined in d) above.
 - f) After meeting with both the Complainant and Respondent determination will be made if a violation of the Policy exists.
 - g) If a violation is decided to exist appropriate disciplinary and/or corrective actions will be determined.

7.02.2 Formal Complaint

If the matter cannot be resolved informally or an informal complaint process is not appropriate then the Complainant has the option of filing a formal complaint.

- a) A written complaint must be filed within six months of the incident complained of, or where the matter complained of consists of a series of related incidents, within six months of the most recent incident. Complaints filed with the Human Rights Tribunal of Ontario on matters related to Ontario's Human Rights Code must be filed within one year of the last alleged incident.
- b) Written complaints will warrant investigation and findings will be discussed amongst the Designated Advisor Committee to determine if a violation of the Policy exists.
- c) If it is agreed that a violation exists appropriate disciplinary actions will be discussed and determined.

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7.03 Formal or informal investigations may be conducted in the absence of a Complainant in circumstances where it is deemed appropriate to do so.

7.04 Unionized staff, complainant or respondent, have the right to consult with a union representative and are entitled to union representation at meetings throughout the process, if so desired.

7.05 Discipline

Where there is a finding of harassment by an employee of the IUOE Local 793 or where it has been determined that a complaint has been made in bad faith, the Business Manager will be consulted on appropriate disciplinary action.

7.05.2 Corrective actions may include any of the following:

- formal apology;
- counselling;
- written warning documented in employee's personnel file;
- change of work assignment;
- suspension or discharge of the employee;
- discharge;
- legal action;
- any other corrective action, financial or otherwise, deemed to be appropriate in the circumstance; and/or
- any combination of the above

7.06 The IUOE Local 793 recognizes that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly convicted of harassment. The IUOE Local 793 recognizes the interests of both the Complainant and Respondent in keeping details of any complaints confidential.

7.07 All reported incidents are documented and kept on file. Documents will be included in individual's personnel files in incidences where harassment has been determined to have occurred or that a complaint has been made in bad faith.

7.08 The effectiveness of this Policy will be reviewed at least annually or when such circumstances require immediate review.

7.09 New employees will receive appropriate orientation to the Workplace Harassment Policy. All employees will receive an annual review of the Policy's general and site-specific components.

8 ATTACHMENTS

8.01 Harassment Complaint Form