

Harassment and Discrimination Free Standard

For KEEYASK, KEEWATINOHK,
and RIEL projects

VERSION 2.0

Available in accessible formats upon request



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1. Purpose

Manitoba Hydro and its contractors are committed to maintaining a safe, healthy and productive work environment where all persons at the Keeyask, Keewatinohk, and Riel Projects (referred to as 'Worksite') are valued and treated with respect and dignity. This purpose of the Harassment and Discrimination Free Standard ('Standard') is to:

- define discrimination;
- define harassment;
- define sexual harassment;
- set out the rights and responsibilities of workers, contractors, and all others who attend the Worksite;
- establish a process to follow when a worker believes they have experienced or observed harassment and discrimination at a Worksite; and
- establish a process to follow for investigations

This Standard is also intended to support the application of Letter of Agreement (LOA) 23 para. (5) in the Burntwood Nelson Agreement between the Allied Hydro Council (AHC) and Hydro Projects Management Association (HPMA) which applies to all AHC members at the Keeyask Project only.

In order to support this purpose, MB Hydro requires all Contractors and subcontractors working on the Worksite to adopt this Standard as their Harassment and Discrimination Free Policy.

2. Policy Statement

Manitoba Hydro and its contractors are committed to creating and maintaining an inclusive workplace free of harassment and discrimination by ensuring that all contractors and their employees, all vendors, visitors and guests, suppliers, and consultants abide by the Standard.

This Standard provides the knowledge to contractors to demonstrate and encourage respectful workplace conduct, and authority to manage employees where necessary.

The Standard acknowledges that:

- Manitoba has a diverse society and workforce with various norms, values, and beliefs;
- Manitoba Hydro and Contractors engaged to work at the Worksite have a duty to act in a manner consistent with applicable Federal and/or Provincial legislation; and
- Every worker is entitled to work in an environment that promotes equal opportunities and prohibits harassment and discrimination.

Manitoba Hydro and its contractors prohibit any form of harassment and discrimination and will ensure that harassment and discrimination are not knowingly committed, condoned or tolerated.

The objectives of the Standard are as follows:

- Encourage a work environment where employees are treated with dignity and respect;
- Prevent harassment and discrimination from occurring through mechanisms

such as increased awareness of acceptable standards of conduct;

- Offer resolution and complaint procedures, considering the cultural norms and values of its employees, to support the early identification and resolution of harassment and discrimination issues; and
- Provide all workers with a fair and consistent process for dealing with harassment and discrimination issues

3. Scope, Application and Education

This Standard applies to all Manitoba Hydro employees, Contractor and Subcontractor owners, managers and employees, any other parties engaged in or performing work on the Worksite, including any visitors, guests, vendors or consultants attending at the site.

Employees will be informed about this Standard upon being hired by Contractors. Education (onboarding) designed to provide awareness of this Standard and its contents and procedures is available to new hires, and to existing employees.

Manitoba Hydro reserves the right, at its sole discretion, to amend this Standard at any time.

4. Definitions of Discrimination and Harassment

There are various pieces of legislation and supporting regulations, along with independent

commissions that guide the definitions of harassment, discrimination, and sexual harassment. These include the Provincial ‘Human Rights Code of Manitoba’, the ‘Workplace Health and Safety Regulation’ and the ‘Human Rights Commission’. This section outlines those definitions and example behaviours.

A) DISCRIMINATION
Legislation defines discrimination as treating a person or group differently, to their disadvantage and without reasonable cause, on the basis of a protected characteristic (identified below); and failing to reasonably accommodate an employee’s special need that is based on a protected characteristic.
- ancestry, including colour and perceived race
- nationality or national origin
- ethnic background or origin
- religion
- age
- sex, including pregnancy
- gender identity
- sexual orientation
- marital or family status
- source of income
- political belief, political association or political activity
- physical or mental disability, or related characteristics or circumstances
- social disadvantage.

The below provides some example behaviours of discriminatory behaviour:

- Decisions or actions (e.g., hiring, promotion, discipline, termination, evaluation, denial of requests, exclusion) based on any protected characteristics;
- Behaviours stating or implying actual or perceived abilities or inabilities based on any protected characteristics; or
- Applying stereotypes or generalizations based on any protected characteristics.

B) HARASSMENT

Harassment is defined as a course of abusive and unwelcome conduct or comments made on the basis of a protected characteristic. These behaviours are described as repeated objectionable conduct that creates a risk to the health of the employee, be it a worker's psychological or physical well-being, or if it could reasonably cause a worker to be humiliated or intimidated. A single, severe occurrence could also be considered harassment if it has a lasting, harmful effect on the worker.

The below provides some example behaviours of harassing behaviour:

- repeated objectionable conduct on the basis of the protected characteristics in *The Human Rights Code* or an employee's size or weight, that creates a risk to the health of the employee
- initiations or pranks
- repeated or continuous incidents of yelling, screaming or name calling
- threats to terminate employment for reasons unrelated to performance
- comments or actions which have the effect of undermining an employee's role, reputation or authority in the workplace
- aggressive words or actions that are intimidating or threatening
- foul, abusive and profane language directed to another employee
- sabotage of ability to properly perform duties
- malicious gossiping

C) SEXUAL HARASSMENT

Sexual harassment is defined as a series of objectionable and unwelcome sexual solicitations or advances, or a sexual solicitation or advance made by a person who is, or who is perceived to be, in a position of power to receive or deny benefits. If the person making the solicitation knows or should reasonably know that it is unwelcome, or there is a reprisal or threat of reprisal for rejecting a sexual solicitation or advance, this is sexual harassment. Sexual harassment also includes offensive or humiliating behaviour that is related to a person's sex, as well as behaviour of a sexual nature that creates an intimidating, hostile, or "poisoned" work environment.

The below provides some example behaviours of sexually harassing behaviour:

- inappropriate touching
- unwelcome initiations or requests for dates or other unwanted sexual attention by a person who knows or reasonably ought to know that such attention is unwanted
- express or implied promise of reward for compliance with a sexually oriented request
- express or implied threat of reprisal or denial of an opportunity for refusal to comply with a sexually oriented request
- sexist remarks, jokes or innuendoes or taunting about a person's body appearance, characteristics or clothing
- displaying or circulating of pornographic or other sexually offensive pictures or material anywhere in the workplace or on a Worksite
- inappropriate questions or sharing of information about a person's sexuality or sexual orientation
- leering, ogling or other sexual oriented gestures

D) EXAMPLE BEHAVIOURS OF WHAT IS NOT HARASSMENT

On occasion, there are behaviours that are misunderstood as harassment. These include:

- appropriate feedback, performance reviews, coaching or discipline by a supervisor or manager;
- day-to-day management or supervisory decisions involving work assignments, employee requests, punctuality, attendance provided they are carried out in a manner that is not discriminatory or abusive;
- reasonable conflicts or disagreements in the workplace that are not based on one of the protected characteristics in *The Human Rights Code*;
- or occasional misunderstandings, oversights, thoughtlessness, poor communication or personality conflicts

5. Harassment through Social Media and other electronic media

Discrimination, Harassment, and Sexual Harassment can take many forms and occur in many ways, including social media and other electronic means.

Contractor responsibilities require the implementation and enforcement of this Standard, which includes the requirement to report and investigate harassment complaints originally from social or electronic means, where the interactions have a direct impact on the persons working on the worksites.

Employees using social media should not expect privacy in electronic communications while using the contractor's or Manitoba Hydro communication systems or in their personal electronic communications with

other employees as public domains and electronic records of these interactions exist, and can be used in the course of an investigation.

Some examples of harassment using social media and other electronic media include, but are not limited to:

- Virtual harassment—harassment through a social media site, for example, using Facebook, Twitter, Snapchat, or other to send offensive or harassing messages
- Text based harassment—harassing, intimidating, or inappropriate text messages
- Sexting—sexually explicit or offensive photos or videos sent via electronic media
- Cyberstalking—harassing an employee by following him or her on blogs, posts, and social websites

Each social media site has its own terms and condition of use, and users of these services are encouraged to use them as necessary.

6. Other Definitions

AHC	Allied Hydro Council - the union bargaining agent under the Burntwood Nelson Agreement
AHC Representative	The employee of the Allied Hydro Council appointed by the Council under the Burntwood Nelson Agreement
AHC Aboriginal Representative	The employee of the Allied Hydro Council, Aboriginal Representative, appointed under LOA 23 the Burntwood Nelson Agreement (Keeyask only)

HARASSMENT AND DISCRIMINATION-FREE STANDARD

BNA	The Burntwood Nelson Agreement, being a Collective Agreement between the Allied Hydro Council and the Hydro Project Management Association (HPMA)
HPMA	The Hydro Project Management Association - the contractor bargaining agent for the Burntwood Nelson Agreement
Informal Resolution	A complaint that is resolved through the negotiation or conflict resolution between two or more parties.
Investigator's Report	The formalized report of the formal investigation process
Complaint	A written or verbal report made by an employee who feels they've been subjected to harassment or discrimination
Complainant	The person making a Complaint of harassment or discrimination
General Contractor	A contracting company hired by Manitoba Hydro to carry out work on the Worksite
Sub Contractor	A contracting company hired by a General Contractor to carry out work on the Worksite
Site Liaison Officer	A Manitoba Hydro employee who provides assistance to any worker, to assist them in dealing with personal issues, and to help informally resolve workplace disputes or issues
Employment Retention & Support Services Coordinator	A contract employee who provides assistance to any worker at any Manitoba Hydro site including assisting workers in dealing with personal issues, or to assist them in dealing with personal issues, and to help informally resolve workplace disputes or issues
Investigator	The individual appointed to investigate the Complaint
Respondent	The person accused of harassment or discrimination by the complainant.
Trusted Advisor	A person identified by a complainant as a person to advise, assist, or direct a complainant in the use of the Standard.

Worksite

Worksite means any property, facility, space or staging area utilized for the construction of the Keeyask, Keewatinohk, and Riel projects. Worksite includes but is not limited to lunchrooms, workspaces, offices, kiosks, meeting rooms, cafeterias, accommodations complexes, training areas or any other areas on the Worksite. Worksite is not limited to physical Worksite but also includes activities, informal and formal, arising from the Worksite, including sponsored voluntary events and/or Contractor sponsored social gatherings related to the Worksite. Worksite also includes vehicles on the Worksite and travelling to and from the Worksite.

7. Responsibilities and Obligations Under This Standard

a) Contractor Responsibility is to:

- Adopt this Standard as their Harassment and Discrimination Free Standard
- Implement and enforce this Standard
- Lead by example to ensure the Worksite is respectful and free of discrimination and harassment
- Ensure all employees have knowledge of, and understand this Standard.
- Document all written or verbal Complaints as per Appendix B, Section 2(a)
- Provide a copy of such Complaint or Notice of Complaint Form to Manitoba Hydro no later than twenty-four (24) hours after receipt
- If an allegation of harassment and discrimination is brought to the attention of management or is observed by management, the manager or other appropriate representative is expected to take action to address the issue.

- Upon receipt of a written, verbal, or form based Complaint, the Contractor must determine the following:
 - If it is necessary to separate the Complainant and the Respondent;
 - Should the Respondent be removed from duty, or removed from site, on administrative leave, pending the outcome of the investigation; or
 - Any other action the Contractor deems appropriate in the circumstance.
- Complete the Investigator's report per Appendix B – section 2(f) of this Standard.
- Document the steps taken to address the issue.

b) Individual Responsibility

The section sets out guiding principles for individual responsibilities. While it is appropriate to address issues by describing that the behaviour is not welcomed, this action may not be consistent with an individual's cultural norms and beliefs. In these circumstances, please see alternate options to help address these concerns in Section 10 or Appendix A. Otherwise, it is an individual's responsibility to:

- Abide by the Standard.
- Actively participate and foster a respectful workplace where discrimination and harassment is not tolerated.
- When encountering behaviour which violates this Standard, all individual's have the ability to communicate to the offending person(s) that the actions or comments are offensive and ask that the offending behaviour stop.
- If this is not possible, not effective, or does not fit your cultural values, you can advise your immediate supervisor or manager, AHC Representative, or other trusted advisor of the concern so that it can be brought forward.
- If the conduct persists, prepare written documentation of the dates and details of concerns and take steps to communicate or address the concerns.

c) Witnesses

If you observe or encounter behaviour which violates this Standard, you are required to:

- Where you are comfortable to do so, advise the individual that such behaviour is unacceptable and must stop immediately;
- Refer the victim of the incident to this Standard; and
- Report the behaviour to a supervisor or manager.

8. Confidentiality

All parties involved in investigations of complaints of discrimination and harassment will be treated with the strictest of confidence. Such complaints will be investigated or resolved with the

persons deemed necessary to carry out the investigation. The names of the individuals involved and the circumstances will only be divulged if necessary for the purposes of investigating the complaint, if required by law, or pursuant to this Standard.

9. Frivolous Complaints or Retaliation for Making Complaints

a) Unsubstantiated/Unwarranted or Frivolous Complaints

Making a false Complaint, frivolous Complaint or a complaint in bad faith, or knowingly providing false information during a process established pursuant to this Standard is prohibited and will result in discipline up to and including termination by the Contractor and may result in site or camp access being revoked temporarily or permanently at Manitoba Hydro's absolute discretion.

Unwarranted or frivolous complaints differ from any unsubstantiated Complaints in that unsubstantiated Complaints are made in good faith but insufficient evidence exists to either prove or disprove the veracity of the Complaint.

b) Retaliation

No one shall discipline, retaliate or take reprisal in any way against anyone who in good faith makes a Complaint pursuant to this Standard, or expresses a concern about discrimination and harassment or who has cooperated in an investigation pursuant to this Standard.

Any retaliation against an individual who has made a bona fide Complaint is strictly prohibited and any individual who engages in such conduct may be subject to discipline up to and including termination and may have their site or camp access revoked temporarily or permanently at Manitoba Hydro's absolute discretion.

10. Assistance of Union Representative and/or Trusted Advisor

It is acknowledged bringing forward an issue of harassment and discrimination, through the use of this or other corporate Standards or policies may not be in keeping with the diverse cultural norms and beliefs that employees have. There are alternate supports to consider where applicable.

An employee may consider using a 'trusted advisor' to assist in bringing the concern forward to the appropriate group or person.

An employee who is an AHC member may request assistance of the AHC Representative if an employee wishes to have the assistance of a representative.

11. MB Hydro and Contractor Potential Outcomes under the Standard

Where violations under the Standard are founded, there are two potential outcomes that respondents (offenders) may be subjected to:

a) *Manitoba Hydro Outcomes – Project access related*

Manitoba Hydro, upon receiving a Complaint, completing an investigation, or being notified of the outcome of an investigation or corrective action(s) may:

- Temporarily deny or revoke camp privileges or site access;
- Permanently deny or revoke camp privileges or site access ;
- Impose any conditions precedent to granting site access or camp privileges; or
- Any other corrective action, preventative action, education or remedial measures that may be appropriate.

b) *Contractor Outcomes – Employment status related*

Appropriate action to be taken by a Contractor against any employee found to have violated this Standard may include, but is not limited to:

- Counseling;
- Written reprimand;
- A suspension without pay;
- Termination of Employment;
- Attendance at remedial training;
- Cultural and/or Gender Sensitivity Training;
- A transfer if the persons involved cannot continue working together; or
- Any other corrective action, preventative action, education or remedial measures that may be appropriate.

APPENDIX A – What You Do If You Are Subject to Harassment or Discrimination

If you believe you are being subjected to behaviour which violates this Standard, you can do the following:

- a) Tell the offending person to cease the behaviour, when possible or able.
- b) If the conduct persists, notify in writing or verbally, any of the following people or groups, who will assist you in understanding options available under the Standard:
 - i. Your supervisor or manager, or company's HR/LR representative
 - ii. Employee Retention Service Coordinator or other ERS representative
 - iii. Manitoba Hydro site Liaison
 - iv. Allied Hydro Council representative
 - v. Manitoba Hydro Labour Relations representative / HPMA
 - vi. Any other Trusted Advisor

The above noted group will advise there are two options for a complainant to consider when identifying a concern of harassment or discrimination – an informal resolution option and formal investigation process. Appendix B outlines when each should be considered, and the processes to follow in each circumstance.

APPENDIX B – Processes for Informal Resolution or Formal Investigation

1) Informal Resolution Option

The goal of an informal resolution is to complete discussions that result in the behaviour ending, and the parties being able to work together comfortably.

Informal resolutions are conducted with the approval of both the complainant and the respondent (offender). It is done through discussion, conflict resolution, or mediation, with the help of any person or group identified in Appendix A.

As an informal process, the steps will differ between circumstances, however, often includes the following:

- May be accomplished by direct discussion between the two parties, without the involvement of any third person
- May be led by the person or group identified in Appendix A that the complainant goes to
- Individual meeting with the complainant to identify what the occurrence is, and determine whether pursuing an informal resolution or a formal investigation is appropriate
- Individual meeting with the respondent
- Permission of both the complainant and respondent to a joint meeting to discuss and resolve the occurrence
- Establishes ground rules for each person going forward. May include written commitments to the other person
- Any Informal Resolution must have the support of the person making the complaint as well as the person responding to the complaint
- Would not be formally investigated, therefore no decision on whether harassment or discrimination is made.

As no formal investigation would be completed, there is no requirement for an investigator's report to be submitted.

If the complainant does not agree with the results of the informal resolution attempts, they can proceed to a formal complaint to be investigated.

2) Formal Investigation Option

Where Informal Resolution is not achieved or is not appropriate, the individual alleging a violation of this Standard has the option to proceed with a Formal Complaint to be investigated. The formal process involves the requirement to conduct a full and complete investigation process, including interviewing the complainant(s), respondent(s), and witness(es), as well as collecting any other applicable data and information.

a) Making a Complaint – How to make a complaint of Discrimination and Harassment

A formal complaint can be initiated by either a written or verbal report of the occurrence. A written report is preferred as it provides a more detailed and thorough description of the discrimination or harassment.

A written or verbal Complaint

- I. Is a description outlining the details of the complaint, and should include dates, times, locations, persons involved, any witnesses, and a description of what happened. The complaint may be made with the assistance of any of the following:
 - AHC Representative;
 - Immediate supervisor or manager of your contractor, where applicable;
 - A trusted advisor.
- II. The Complaint shall be submitted to the individual as identified below:
 - A complaint made by an AHC member shall be submitted to their applicable supervisor or manager, HR/LR representative; or
 - AHC Representative;
 - A complaint made by an out-of-scope Contractor employee shall be submitted to the Contractor Manager;
 - A complaint made by a vendor, consultant or visitor shall be made to the Contractor to whom they're associated with;
 - A complaint made by a Manitoba Hydro employee shall be made to the appropriate Manitoba Hydro representative.

Complainant's Rights

Nothing in this Standard prohibits the Individual their right to report the incident to the police or any other form of authority, including the Human Rights Commission under the *Human Rights Code*.

Respondent’s Rights

The Respondent will be made aware of the Complaint and any other information to regarding the complaint that has been provided to the Investigator and will be given an opportunity to respond to any alleged violations of this Standard.

b) Who should conduct the investigation

The complainant and respondent’s contractor(s), and whether the employee is in scope or out of scope will determine who the investigator should be. Please see the below matrix to identify who is identified as the Investigator.

<i>Complainant</i>	<i>Respondent</i>	<i>Who Investigates Complaint?</i>
In Scope AHC member (Contractor 1)	In Scope AHC member (Contractor 1 – same contractor as Complainant)	Contractor Representative
In Scope AHC member (Contractor 1)	In Scope AHC member (Contractor 2 – different contractor as Complainant)	<ul style="list-style-type: none"> • Site based MH Labour Relations Advisor; or • AHC/HPMA (under LOA 23 of BNA)
In Scope AHC member	MH employee	<ul style="list-style-type: none"> • Designated MH representative • Site based MH Labour Relations Advisor may assist
In Scope AHC member	Visitor/vendor/consultant	Site based MH Labour Relations Advisor
Contractor non-union employee (Contractor 1)	In Scope AHC member (Contractor 1)	Contractor Representative
Contractor non-union employee (Contractor 1)	In Scope AHC member (Contractor 2)	Site based MH Labour Relations Advisor
Contractor non-union employee	Contractor non-union employee	Contractor Representative

Contractor non-union employee	MH employee	<ul style="list-style-type: none"> • Designated MH representative • Site based MH Labour Relations Advisor may assist
Contractor non-union employee	Visitor/vendor/consultant	Contractor Representative
MH employee	Visitor/vendor/consultant	<ul style="list-style-type: none"> • Designated MH representative • Site based MH Labour Relations Advisor may assist
MH employee	Contractor non-union employee	<ul style="list-style-type: none"> • Designated MH representative • Site based MH Labour Relations Advisor may assist
MH employee	MH employee	Site based MH HR Advisor
Visitor/vendor/consultant	In Scope AHC member	Site based MH Labour Relations Advisor
Visitor/vendor/consultant	Contractor non-union employee	Site based MH Labour Relations Advisor
Visitor/vendor/consultant	Visitor/vendor/consultant	Site based MH Labour Relations Advisor

c) When is an independent investigator appropriate?

Should the Contractor employing the Complainant and Respondent object to Manitoba Hydro conducting an investigation, a qualified independent investigator will be appointed and the Contractor will pay the cost of such independent investigator. Additionally, where the Contractor determines a management representative or the human resource department is not able to conduct an impartial investigation, a qualified independent investigator may be appointed to conduct the investigation.

d) Timeframes for the investigation

- The Complaint should be made as soon as possible but no later than sixty (60) days from the date of the violation of this Standard.

- Complaints made shall have an investigation begin as soon as is practicable, and no later than seven (7) days from the filing of the complaint. Extension of timeframes may be granted in circumstances where the complainant is not available to complete an interview to clarify the complaint.
- Investigation timeframes will vary depending on the size and scope of the investigation, however, the investigator will endeavour to complete investigation within seven (7) days from the start.
- The investigator will submit an investigation report within sixteen (16) days from the start of the investigation.
- The investigator will document the findings the findings in an Investigator's report, outlined in Appendix B Section f).

e) Steps of the Investigation Process

The investigation process requires an investigator, working within appropriate timeframes to completing the investigation, which results in an investigator's report and required actions and communications to close the investigation.

The steps of the Investigation Process will be as follows:

- i. Review Complaint and supporting documentation;
- ii. Interview Complainant to review the Complaint, obtain further relevant facts, documents, the reason for making complaint, desired resolution of complaint, names of other witnesses, or any other relevant information or materials. The interview process must be documented;
- iii. Interview Respondent to review allegations, ensure fully aware of allegations, obtain respondents version of the events relating to allegations, provide opportunity to respond to all the allegations, obtain names of witnesses, copy of documents or any other relevant information. The interview process will be documented. The Respondent may also provide a written statement in support of the interview statements;
- iv. Obtain all relevant documents, written or electronic, from all sources (example, email or other electronic media, social media, Facebook, etc.);
- v. Meet with each witness to obtain all relevant facts, documents, names of other witnesses or any relevant documents. Witness statements must be documented;
- vi. Such other actions the investigator deems appropriate to complete the investigation including further interviews of the Complainant or Respondent, where appropriate, to obtain further information or clarifications.

f) Investigator's Report

The Investigator's Report shall contain the following:

- i. Identification of the Complainant and Respondent;
- ii. An overview of the nature of the complaint when the Contractor was notified and when Manitoba Hydro was notified;
- iii. An assessment of the Complaint and all relevant information in support of the Complaint;
- iv. An assessment of all relevant information provided by witnesses;
- v. An assessment of the Respondent's position and all relevant information, including witness statements, in support of the Respondent's position;
- vi. The results of the investigation including whether or not the Complaint, or any portion of the Complaint, is founded or unfounded;
- vii. Any other finding the investigator deems appropriate; and
- viii. Any Investigation Reports issued by the AHC Representative or HPMA Representative, in addition to containing their respective findings, their Reports should contain "recommendations for actions by the contractor".

***** Note: A Complaint that is resolved through an informal resolution process does not require a formal investigator's report, however a summary must be provided to the Manitoba Hydro Labour Relations Advisor.**

g) Closing the Investigation

Informing Complainant, Respondent, Management, and/or Manitoba hydro of outcome of investigation

- i. Inform the management representatives of the contractor(s) of the complainant and respondent, including the distribution of the Investigators Report;
- ii. Inform the Complainant of the investigation findings; and
- iii. Inform the Respondent of the investigation findings.
 - a. The contractor is responsible to identify any corrective or other action(s) to be taken, which could include any applicable remedies as outlined in Section 11
- iv. The Investigators Report must be shared with the Manitoba Hydro Labour Relations Advisor, who will consult with Camp/Lodge Operations to determine status of project access.

