



Policy Against Harassment and Discrimination in the Workplace



Version adopted by the Board of Directors on the date of May 17th 2023

Motion of adoption: Clara Halliday

Second: Karine Millaire

Quorum of (4) four members

The French and English versions of this policy are equally authoritative.

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PREAMBLE

The Montreal Indigenous Community NETWORK (the NETWORK) is committed to providing a safe, respectful, and inclusive environment for all individuals and recognizes that harassment in any form is unacceptable and will not be tolerated. The NETWORK pledges to establish, uphold, and maintain a work culture that both supports and uplifts all of its employees in order to ensure equity and respect amongst all those involved with the organization. The NETWORK recognizes that in order to dismantle colonial and racist systems and structures of oppression, it must first address and target ways to identify, prevent, and treat all facets that support and uphold these systems and structures within and beyond the workplace.

1. PURPOSE

1.1. The purpose of this policy is:

- **to affirm** the NETWORK's responsibility to prevent, identify, and resolve any situation of harassment and discrimination within the organization, including direct discrimination, indirect discrimination and systemic discrimination;
- **to delineate** a set of principles and procedures for handling situations of harassment and discrimination in the workplace, and to define the roles of those responsible for upholding and carrying out these principles and procedures;
- **to commit** to dismantling colonial and racist systems of oppression by identifying, preventing, and treating the facets that uphold them within the organization;
- **to ensure** that Indigenous pedagogies are respected at each stage of this policy's implementation, including with respect to restorative approaches, cultural safety, justice, healing and consensual decision-making processes.

2. SCOPE

2.1. This policy applies to:

- all employees, contractors, volunteers, interns, managers, officers, board directors, partners— whether non-profit or governmental organizations— and other members or individuals implicated singularly or repeatedly with the organization;
- all work sites and contexts, including telecommuting, namely the sites

where personnel complete their tasks, as well as any site that employees must visit in the context of their work (e.g. meetings, trainings, travel, social activities organized by the NETWORK, etc.);

- all modes of communication, including digital communication (social media, email, text messages, posters, letters, etc.).

2.2. This policy encompasses any form of harassment, racism, disrespect, or discrimination within the NETWORK, whether it be:

- by management toward employees;
- between colleagues;
- by employees toward the management;
- done by any other associated person, whether they are a representative, client, user, supplier, visitor or other.

3. DEFINITIONS

3.1. **“Colonization”** or **“Colonialism”** is the violent and forceful practice or policies by which foreign invaders assimilate, control, impose upon, and remove other groups of people from their ancestral lands, often for the goal of economic, political, and cultural domination. For centuries Indigenous peoples have undergone mass genocide, ethnocide, slavery, and displacement due to settler colonization and the ideologies that supported them. Indigenous peoples to this day continue to be affected by poor social determinants of health caused by the upholding of colonial systems, structures, and beliefs.¹

3.1.1. **“Colonial Systems”** are institutional and governmental patterns kept in place in order to keep non-white peoples oppressed and at a social, economic, and political disadvantage. This is done by creating institutions, legislations, and other groups or policies that are designed to protect and favour white supremacy.² The Indian Act is an example of a colonial system that upholds white supremacy by regulating and restricting Indigenous peoples movement, hunting rights, property ownership, Indigenous status, and more.³

3.2. **“Indigenous Cultural Safety”** is the practice of fostering and sustaining environments free of racism, discrimination, and prejudice, so that current Indigenous realities and power imbalances can be taken into account when Indigenous peoples are being publicly serviced. It is a practice that ensures that

¹ *Lexicon of Terminology - Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*. National Inquiry into Missing and Murdered Indigenous Women and Girls. 2019.

https://www.mmiwg-ffada.ca/wp-content/uploads/2018/02/NIMMIWG_Lexicon_ENFR-1.pdf

² *Understanding the Overrepresentation of Indigenous People*, State of the Criminal Justice System. Department of Justice - Government of Canada. 2022, <https://www.justice.gc.ca/socjs-esjp/en/ind-aut/uo-cs>.

³ *Indian Act* (R.S.C., 1985, c. I-5). Government of Canada. <https://laws-lois.justice.gc.ca/eng/acts/i-5/>

public settings have the resources necessary to make Indigenous clients, customers, workers, or patients feel safe and accommodated, by understanding and propelling Indigenous understandings of health, wellness, and safety.⁴

3.3. "Discrimination" refers to direct discrimination, indirect discrimination and systemic discrimination. Direct discrimination is defined as the differential treatment of a person on the basis of their membership to a particular group in society and the biases, prejudices or stereotypes that are consciously or unconsciously conveyed about that group. Indirect discrimination refers to the adverse effects that the application of seemingly neutral laws, policies, norms or institutional practices may have on an individual or group of individuals. The combination of these two types of discrimination is systemic discrimination, which is widespread and even institutionalized in the practices, policies and cultures of a society. Systemic discrimination can impede an individual's life course and even have negative effects across generations.⁵

3.4. "Harassment" as defined by *The Act respecting labour standards* defines workplace harassment as follows:

*[A]ny vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that results in a harmful work environment for the employee. For greater certainty, psychological harassment includes such behaviour in the form of such verbal comments, actions or gestures of a sexual nature.*⁶

3.4.1. A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment. This definition includes discriminatory harassment linked to one of the grounds set out in the *Quebec Charter of human rights and freedoms*, namely race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age, religion, political convictions, language, ethnic, cultural, or national origin, social condition, a handicap or the use of any means to palliate a handicap. The *Quebec Charter* also prohibits penalizing a person in their employment for the mere fact of having been convicted of a penal or criminal offence, if the offence was in no way connected with the employment or if the person has obtained a pardon for the offence.⁷

3.5. "Indigenous Pedagogy" is a way of teaching and learning which is rooted in

⁴ #Itstartswithme - *Creating a Climate for Change : Cultural Safety and Humility in Health Services Delivery for First Nations and Aboriginal Peoples in British Columbia*. First Nations Health Authority. 2009.

<https://www.fnha.ca/wellness/wellness-and-the-first-nations-health-authority/cultural-safety-and-humility>.

⁵ *Rapport de la Commission Viens*, p 215, citant le témoignage de Colleen Sheppard, notes sténographiques du 7 juin 2018.

⁶ *Act respecting labour standards n-1.1*. Consolidated Statutes and Regulations, Légis Québec. Ministère de l'Emploi et de la Solidarité sociale: Gouvernement du Québec. 2023. <https://www.legisquebec.gouv.qc.ca/en/document/cs/n-1.1>

⁷ *Act respecting labour standards n-1.1*. Consolidated Statutes and Regulations, Légis Québec. Ministère de l'Emploi et de la Solidarité sociale: Gouvernement du Québec. 2023. <https://www.legisquebec.gouv.qc.ca/en/document/cs/n-1.1>

“engaging the four knowledge domains that interweave all aspects of learning: emotional (heart), spiritual (spirit), cognitive (mind) and physical (body)”⁸. Indigenous pedagogies therefore prioritize lived experiences, place-based learning, intergenerational knowledge, and holistic ways of being.⁹

- 3.6. **“Marginalization”** occurs when groups of people are denied adequate or complete access to various socioeconomic and political resources or systems due to their personal attributes or backgrounds such as their race, sex, origin, age, nation, culture, skin colour, gender or gender expression, educational background, sexual orientation, economic background, disability, etc.¹⁰
- 3.7. **“Oppression”** is the historical limitations placed upon stigmatized groups of people by the “dominant”—usually powerful— members of society. These limitations include laws, behaviours, or social norms that are set into place and upheld in order to keep these “non-dominant” groups of people at a socioeconomic and political disadvantage.¹¹
- 3.8. **“Racism”** is a doctrine of hatred based upon one or many races.¹² It “...is a social injustice based on falsely constructed, but deeply embedded, assumptions about people and their relative social value; it is often used to justify disparities in the distribution of resources.”¹³
- 3.9. **“Whistleblowing”** The act of disclosing information about corruption or other wrongdoings being committed in or by an organization to individuals or entities believed to be able to effect action – the organization itself, the relevant authorities, or the public¹⁴.

4. THE NETWORK'S COMMITMENT

- 4.1. The NETWORK commits to:
 - take reasonable measures to **provide a work environment free of all forms of harassment** in order to protect peoples' dignity as well as their physical and psychological integrity;
 - **disseminate this policy** to all personnel by making it openly accessible on its website, providing a copy to each employee and by posting it in an easily

⁸ *Meaningful Integration of Indigenous Epistemologies and Pedagogies - Pulling Together: A Guide for Curriculum Developers*. BCcampus. 2020.

<https://opentextbc.ca/indigenizationcurriculumdevelopers/chapter/topic-indigenous-epistemologies-and-pedagogies/>

⁹ Ibid.

¹⁰ *Definitions, State of the Criminal Justice System*. Department of Justice - Government of Canada. 2022.

https://www.justice.gc.ca/socjs-esjp/en/ind-aut/Definitions#socio_economic_marginalization.

¹¹ *Talking About Race: Social Identities and Systems of Oppression*. Smithsonian - National Museum of African American History & Culture. 2021. <https://nmaahc.si.edu/learn/talking-about-race/topics/social-identities-and-systems-oppression>.

¹² *Understanding Racism*. National Collaborating Centre for Indigenous Health. 2013.

https://www.nccih.ca/495/Understanding_racism.nccih?id=103

¹³ *Social Determinants of Health: Indigenous Experiences with Racism and its Impacts*. National Collaborating Centre for Indigenous Health. 2014. https://www.nccih.ca/495/Indigenous_experiences_with_racism_and_its_impacts.nccih?id=131.

¹⁴ *Whistleblowing*, Transparency International: the global coalition against corruption

<https://www.transparency.org/en/our-priorities/whistleblowing>. 2023.

accessible place ;

- **offer culturally safe support** in respect to the various different Indigenous identities and values and the different needs they may require to ensure a culturally safe procedure when concerned by a situation of harassment, discrimination, disrespect or racism, including putting in place an individualized and clear procedure to handle complaints, and to act rapidly when situations are brought to its attention;
- **identify, denounce, and correct** any types of behaviour that uphold or contribute to colonial or racist systems of oppression;
- **review** the implementation of this policy in order to evaluate the attainment of results and to make any necessary modification.

5. STAFF RESPONSIBILITY

- 5.1. All employees have the duty to adopt behaviour that favours the maintenance of a work environment that is free of all forms of harassment, discrimination, racism, and disrespect;
- 5.2. Human Resources has the duty to quickly develop and conduct an appropriate procedure for any case of harassment, racism, discrimination or disrespect that is brought forth within the workplace;
- 5.3. The NETWORK's Leadership, being the Steering Committee and Board of Directors (BOD) if necessary, have the duty to take appropriate disciplinary action towards any instances of harassment, racism, discrimination or disrespect that is brought forth within the workplace with the counsel of HR.

6. PROCESS FOR HANDLING COMPLAINTS AND REPORTS

- 6.1. **PROCEDURE.** Whenever possible, an individual who believes they are experiencing harassment should first inform the person in question that their behaviour is undesired and must stop. They should also keep a note of the date and details of the incidents as well as the steps they took to try to resolve the situation.
 - 6.1.1. It remains understood that in certain cases it may not be possible for an individual who is being harassed to address the person that is harassing them. If this type of initial intervention is undesirable or if the harassment persists, the person should report the situation to Human Resources. Complaints may be formulated verbally or in writing. The behaviour and incident details that are the object of the complaint must be described as precisely as possible, to allow for rapid intervention to end the situation. It is preferable that these details be set down in writing as soon

as possible.

6.1.2. A person who has witnessed harassment is also invited to report it to one of the people mentioned above. This witness may also discuss the situation with the person who they believe is being harassed, in situations where this seems appropriate.

6.2. **ANONYMOUS COMPLAINT.** Although the mere fact that a complaint is made anonymously does not render it inadmissible, it nonetheless significantly increases the risk that the NETWORK will be unable to conclude that harassment occurred. This will notably be the case when it is impossible to confirm or to request further details regarding the facts alleged.

6.3. **NETWORK'S DUTY TO ACT.** Whether or not a person intends that a report be treated as unofficial, once the NETWORK has knowledge of the possibility that a situation of harassment exists within the organization, it has the legal obligation to end the harassment, if it indeed exists. This said, the implementation of this policy must minimize at all times the risk that the implementation itself contributes to the harm suffered by a person who may have been harassed, to the extent reasonably possible in light of the other aims pursued by this policy.

6.4. **RECOURSE BEFORE THE CNESST.** A non-unionized employee who believes they have been subjected to workplace psychological or sexual harassment may also complain directly to the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (CNESST). A person's choice to first complain to the NETWORK does not prevent them from also submitting a complaint to the CNESST.

6.4.1. In the case where an individual implicated with the organization files a complaint with the CNESST, any show of discrimination, disrespect, and racism all fall under the CNESST's category of "psychological harassment".

6.4.2. In an instance where HR or Leadership cannot be implicated within the harassment complaint procedure, an outside intermediary can be hired upon a request made by the individual experiencing harassment to the Board of Directors. The hired intermediary should always be chosen by the individual experiencing harassment and approved by either Leadership or the BOD.

7. INTERVENTION PRINCIPLES

7.1. The NETWORK commits to:

- take up the complaint or report as soon as possible;
- preserve the dignity and privacy of the people concerned, namely the person

who made the complaint, the person who is the subject of the complaint and witnesses;

- protects any individual who comes forth with an anonymous complaint (“whistleblowing”) or who makes a public complaint from retaliation;
- ensures that all those concerned are treated with humanity, fairness and objectivity and that they are offered adequate support;
- use restorative and culturally safe processes when appropriate and when welcomed by the parties;
- protect the confidentiality of the intervention process, notably of information related to the complaint or report;
- offer to hold a meeting of those concerned, with their consent, related to the complaint or report;
- conduct an objective investigation without delay, or to confer the responsibility upon an external investigator. Those concerned shall be informed of the result of the process. Interviews and written responses from the parties will be considered. If the investigation does not allow the conclusion that unacceptable behaviour took place, all material evidence will be retained for two years, after which point it shall be destroyed. The NETWORK intends to hire one or more external investigators to conduct any investigation under the present policy, but reserves the right to conduct the investigation internally, depending notably on the organization's financial situation;
- take all reasonable measures to resolve the situation, notably including appropriate disciplinary measures.

7.2. Any person who violates this harassment policy shall be subject to appropriate disciplinary measures. The choice of the measure will take into consideration the gravity and consequences of the act or acts as well as the previous file of the person responsible for them.

7.3. A person who submits false accusations in bad faith with the intention to harm another person is also subject to appropriate disciplinary measures.

7.4. The NETWORK shall not otherwise disadvantage nor subject any person to reprisals in the context of its handling of any situation related to workplace harassment.

8. APPENDIX 1 – RECOGNIZING PSYCHOLOGICAL OR SEXUAL HARASSMENT

8.1. To provide examples of what does not constitute harassment, the following situations will not generally in and of themselves satisfy the legal definition:

- a conflict at work between two employees;

- work-related stress;
- difficult professional constraints;
- the normal exercise of management rights (management of the regular presence of employees, organization of work, misdeeds punished by a disciplinary sanction, etc.).

8.2. Even an unjustified disciplinary measure does not, in and of itself, meet the definition of harassment.

8.3. On the other hand, decisions in past Quebec cases have recognized that a disciplinary process can in some cases constitute harassment. For example, it was determined that an abusive disciplinary process that considerably departed from the normal exercise of management rights constituted harassment.

9. **APPENDIX 2 – PERSONS DESIGNATED AS RESPONSIBLE FOR RECEIVING COMPLAINTS AND REPORTS**

9.1. The Board of Directors shall ensure that the persons designated as responsible for implementing the present policy are properly trained and have the needed tools and resources at their disposal.

9.2. The NETWORK will free sufficient work time to allow the designated responsible persons to fulfill their assigned functions.

9.3. These responsible persons, being Leadership and HR, must primarily:

- Complete appropriate training before assuming their functions, and then complete additional appropriate training annually;
- Reasonably ensure themselves that the present policy is disseminated effectively and in accordance with the minimal requirements set out in this policy regarding its dissemination ;

9.4. When any complaint or report is received:

- Acknowledge the receipt within one working day and, make a serious effort, in the same message, to outline the next steps in the process, identify who will be the contact person for the complainant, indicate the anticipated time to resolve the complaint or report, and indicate when they will be in touch next. If it is impossible to provide some of this information within that delay, the acknowledgement of receipt should at least indicate the delay within which the missing information will be provided;
 - Determine, as soon as is practicable, whether provisional measures are necessary or desirable to stop the alleged harassment (e.g. reassignment or suspension with pay) during the time that other steps,

such as an investigation, are conducted;

- When such provisional measures are necessary or desirable, ensuring that they are implemented as soon as is practicable;
- Ensuring that all subsequent necessary or desirable steps (a meeting of those concerned, an investigation, etc.) is carried out without delay;
- Submit an annual report to the Board of Directors regarding their activities with respect to the implementation of this policy and raising any recommendation or request for clarification that may have arisen in the course of these activities.