



Labour Program: fair, safe and productive workplaces

## Sample employer response to a notice of occurrence of workplace harassment and violence

**Note:** this employer response to a notice of an occurrence is a sample only, developed for educational purposes. As an employer, you may:

- amend or customize this document to reflect your needs; or,
- develop your own procedures for responding to a notice of an occurrence.

Date: [date employer or designated recipient received the notice of occurrence]

Dear: [name of principal party]

This letter confirms receipt of your notice of an occurrence, received by [name of employer or designated recipient who received the notice] on [date received]. You have a number of options for seeking resolution. These options include negotiated resolution, conciliation and/or an investigation. You will find the descriptions for all these options below.

### Negotiated resolution – initial meeting

The first phase of the resolution process is an initial meeting or conversation with the employer or designated recipient. During this meeting or conversation, you and [name of employer or designated recipient] will discuss the occurrence. You will both attempt to determine together whether the occurrence falls under the definition of harassment and violence as outlined at subsection 122(1) of the *Canada Labour Code*.

If both you and [name of employer or designated recipient] agree that the occurrence does not fall under the definition of harassment and violence, then you will both consider the occurrence as resolved. However, if you believe that the occurrence falls under the definition of harassment and violence but [name of employer or designated recipient] does not agree with you, you have the options of:

- continuing with negotiated resolution; or,
- pursuing conciliation and/or an investigation.

### Negotiated resolution – subsequent meetings

Negotiated resolution can take the form of one or more informal meetings with:

- just [name of employer or designated recipient], or
- with [name of employer or designated recipient] and the responding party, if it is appropriate

During these meetings, the parties involved will attempt to resolve the occurrence through discussions, counselling or coaching. If negotiated resolution does not resolve the occurrence, you can still seek resolution through conciliation and/or an investigation. You can go through both conciliation and investigation at the same time as negotiated resolution.

## Conciliation

Conciliation can only proceed if both you and the responding party mutually agree to:

- engage in conciliation; and,
- who is to facilitate the conciliation.

Conciliation can be conducted at the same time as other avenues of resolution, such as negotiated resolution or an investigation.

## Investigation

You may choose to proceed to an investigation at any point in the resolution process.

**[Editor's note:** Choose one of the two options to include in the response.]

[1. In the case where the employer has a jointly developed list of investigators with the applicable partner.]

If you choose to proceed with an investigation, [name of employer or designated recipient] will provide you and the responding party with notice that [name of employer or designated recipient] will select an investigator. Following this notice, [name of employer or designated recipient] will assign an investigator from the list of investigators that [name of employer] developed jointly with the [choose one: policy committee/ work place committee/ health and safety representative].

The investigator selected will provide you and the responding party with a written statement indicating that they are not in a conflict of interest in respect of the occurrence. This investigator will be:

- trained in investigative techniques
- have knowledge, training and experience relevant to harassment and violence in the workplace, and
- have knowledge of Part II of the *Canada Labour Code*, the *Canadian Human Rights Act*, and any other legislation that is relevant harassment and violence in the work place

[Name of employer] will provide the investigator with all information that is relevant to the investigation. The investigator will then investigate the occurrence and provide the [name of employer] with a final report once they have concluded the investigation. At this point, the occurrence can no longer be resolved through negotiated resolution or conciliation pursuant to the *Work Place Harassment and Violence Prevention Regulations*. [Name of employer] will provide a copy of this report to:

- you;
- the responding party; and,
- the [choose one: workplace committee/ health and safety representative].

The report will not reveal, directly or indirectly, your identity or the identity of any of the persons who are involved in the occurrence or the resolution process of the occurrence.

[2. In the case where the employer does not have a jointly developed list of investigators.]

If you choose to proceed with an investigation, [name of employer or designated recipient] will provide you and the responding party with notice that an investigation will be conducted. You, the responding party and [name of employer or designated recipient] will then have 60 days from the day on which [name of employer or designated recipient] provided this notice, to select an investigator who all parties agree to. Anyone who proposes a person to act as an investigator must provide the other parties involved with the investigator's statement of qualifications. This statement of qualifications must include:

- the investigator's name;
- the investigator's job title and the name of their immediate supervisor if they are an employee of the employer;
- a description of their training in investigative techniques;
- a description of their knowledge, training and experience as it relates to harassment and violence in the workplace;
- a description of their knowledge of Part II of the *Canada Labour Code*, the *Canadian Human Rights Act* and any other legislation that is relevant to harassment and violence in the workplace; and,
- a description of any experience that they have which is relevant to the nature of the occurrence that is to be investigated.

If you, the responding party and [name of employer or designated recipient] cannot agree on an investigator within 60 days, [name of employer or designated recipient] will select a person from the list provided by the Canadian Centre for Occupational Health and Safety (CCOHS).

[Name of employer] will provide the investigator with all information that is relevant to the investigation. The investigator will then investigate the occurrence and provide the [name of employer] with a final report once they have concluded the investigation. At this point, the occurrence can no longer be resolved through negotiated resolution or conciliation pursuant to the Regulations. [Name of employer] will provide a copy of this report to:

- you;
- the responding party; and,
- the [choose one: workplace committee/ health and safety representative].

The report will not reveal, directly or indirectly, your identity or the identity of any of the persons who are involved in the occurrence or the resolution process of the occurrence.

## **Confidentiality**

[Name of employer or designated recipient], the conciliator and/or the investigator may provide the information you provided them to the responding party where deemed necessary and appropriate. However, the investigator's report will not reveal, directly or indirectly, the identity of persons who are involved in:

- an occurrence; or,
- the resolution process for an occurrence.

This includes the identity of the principal party, responding party, witnesses and any individuals interviewed by the investigator during the course of the investigation.

Please maintain confidentiality regarding the occurrence. You must refrain from disclosing any information related to the occurrence or the resolution process to other colleagues or supervisors.

## **Retaliatory behaviour**

You are prohibited from seeking retaliation. If you experience any retaliatory action from the following, please inform [name of the employer or designated recipient] immediately:

- the parties involved in the occurrence;
- witnesses; and/or,
- other colleagues or supervisors/managers.

## **Influencing parties involved**

To ensure the integrity of the resolution process, parties involved in an occurrence are prohibited from influencing any parties involved in the occurrence or witnesses to an occurrence.

## **Workplace policy**

You may access our company Workplace Harassment and Violence Prevention Policy at [web link to policy] or at [physical location of policy].

## **Support services**

You can access a list of available services at [employer to insert hyperlink(s) to online help services and location of other resources].

## **Monthly status updates**

Should you choose to proceed with the resolution process, [name of employer or designated recipient] will provide monthly updates on the status of the resolution process.

## **Next steps**

[Name of employer or designated recipient] will be contacting you shortly to schedule a meeting to:

- obtain more information regarding the occurrence;
- review the notice of an occurrence against the definition of harassment and violence; and,
- discuss further resolution options with you.

During this and any subsequent meetings, a union representative, colleague, friend or partner may represent or accompany you. If you would like to exercise this option, please advise [name of employer or designated recipient] of the name and title of this person.

If you wish to contact [name of employer or designated recipient], do not hesitate to call or email at the number or email address provided below.

Sincerely,

[Name, number, and/or email of the employer or designated recipient]