



Lansing Co-operative Nursery and Preschool

## **Workplace Violence And Harassment Policy**

Lansing Co-operative Nursery School is committed to providing a work environment which is free of violence and harassment and is supportive of the self-esteem and dignity of every person within the Nursery School.

Lansing Co-operative Nursery School's intent is to ensure there is a climate of understanding, co-operation and mutual respect. To be successful in this objective, it is incumbent upon all members of the Nursery School not to condone or tolerate behaviour which constitutes violence or harassment. Lansing Co-operative Nursery School will provide for a fair and prompt investigation of any complaint or concern without fear of reprisal, as long as the complaint is not found to be frivolous or vexatious.

### ***Scope***

This policy applies to complaints of violence or harassment that involve employees or volunteers of Lansing Co-operative Nursery School. This policy covers complaints of violence, harassment and sexual harassment in the workplace, as defined below. As Lansing Co-operative Nursery School employs minors in volunteer roles, express reference is made to the fact that this policy will also apply to minors. A minor or a minor's parent or guardian may file a complaint(s) in accordance with this policy. In such an event, the complaint shall be reported to the Supervisor, who will review the necessity for reporting the complaint to the child welfare authorities or police of the jurisdiction within which the complaint arises.

### ***DEFINITIONS***

#### ***Workplace Violence***

Workplace violence includes incidents where people are abused, threatened or assaulted in circumstances relating to their work, involving an explicit or implicit challenge to their safety, well-being or health. Workplace violence may also include:

- The exercise of physical force by a person against a worker in a workplace that causes or could cause physical injury to the worker,
- An attempt to exercise physical force against a worker in a workplace that causes physical injury to the worker,
- A statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker in a workplace that could cause physical injury to the worker

#### ***Harassment***

Harassment comprises any unwelcome or objectionable, physical, visual or verbal conduct, comment or display, whether intended or unintended, that is insulting, humiliating or degrading to another person, or creates an intimidating, hostile or offensive environment and/or is on the basis of race, ethnicity, language, financial ability, religion, gender or sexual orientation,

disability or age, or any other kind of discrimination which is prohibited by particular provincial/territorial legislation:

- made by an employee, volunteer, client or supplier of Lansing Co-operative Nursery School
- directed at and offensive to any other employee, volunteer, client or supplier of Lansing Co-operative Nursery School, or any other individual or group
- that the person knew or reasonably ought to have known would be offensive (e.g., unintended)

Examples of harassment include, but are not limited to:

- threats made or perceived, that are malicious, vexatious or based on any of the prohibited grounds under Human Rights legislation
- derogatory written or verbal communication or gestures (e.g. name-calling, slurs, taunting pictures or posters, bullying, graffiti), that are malicious, vexatious or that relate to any of the prohibited grounds under Human Rights legislation
- application of stereotypes or generalizations based on any of the prohibited grounds under the legislation

### ***Sexual Harassment***

Sexual harassment means any unwelcome conduct, comment, gesture or contact of a sexual nature, whether on a one-time basis or in a continuous series of incidents that:

- might reasonably be expected to cause offence, embarrassment or humiliation
- might reasonably be expected to be perceived as placing a condition of a sexual nature on employment, services, or on any opportunity for training or advancement

Examples of sexual harassment include, but are not limited to:

- remarks, jokes, innuendoes or other comments regarding someone's body, appearance, physical or sexual characteristics or clothing
- displaying of sexually offensive or derogatory pictures, cartoons or other material
- persistent unwelcome or uninvited invitations or requests
- unwelcome questions or sharing of information regarding a person's sexuality, sexual activity or sexual orientation
- conduct or comments intended to create, or having the effect of, creating an intimidating, hostile or offensive environment

### ***Bullying***

Bullying is an offensive, cruel, intimidating, insulting or humiliating behaviour which includes physical violence or the threat of physical violence. It can be physical or verbal, direct or indirect such as gossip. Bullying is considered harassment in general, unless there is physical contact or a threat of violence, where it is considered violence. Bullying is ill treatment which is not addressed under Human Rights legislation or criminal codes.

### ***Workplace***

For the purposes of this policy, workplace includes any location in which employees and/or volunteers are engaged in Lansing Co-operative Nursery School business activities necessary to perform their assignments. This includes, but is not limited to, Lansing Co-operative Nursery

School buildings, employee/volunteer parking lots, employee/volunteer organized social events, field locations, and during business related travel.

### ***Abuse of Power***

Abuse of power happens whenever Lansing Co-operative Nursery School staff/volunteer abuses or misuses their power and discretion for personal benefit, or in benefit of another person.

Abuse of power, for the purposes of this policy, includes situations involving a minor, situations that involve a reporting relationship, or any situation that includes an accusation from a client against an employee or volunteer who is providing a service upon which the client depends. Incidents that involve an abuse of power are considered by Lansing Co-operative Nursery School as being, generally, of a more serious nature than peer-to-peer situations.

### ***Mediator***

A mediator is an impartial, neutral party, without decision-making powers, whom both parties accept. The mediator could be any internal or external party with effective interpersonal skills that has an interest in facilitating resolution. The goal of mediation is to assist both parties to reach a mutually beneficial agreement.

### ***Investigator***

The investigator is utilized where mediation is not appropriate or fails. An investigator must be a well-trained individual who is able to conduct a formal process with clear documentation. An investigator will not have a reporting line or personal relationship/connection with either the complainant or alleged harasser. To the best of Lansing Co-operative Nursery School's ability, we will endeavour to seek an investigator outside of the organization, possibly accessing *pro bono* services through a consulting service.

If an investigation is required for a violent event or a situation involving harassment, the worker is to remain:

- in a safe place that is as near as reasonably possible to their work station; and
- available to the employer or Supervisor for the purposes of the investigation.

### ***POLICY APPLICATION***

This policy will be reviewed as often as necessary, but at least annually with all employees and volunteers of Lansing Co-operative Nursery School.

### ***Prevention***

Prevention is always the first line of defence against occurrences of violence and harassment.

All employees and volunteers are reminded of their obligation to follow the Lansing Co-operative Nursery School's Personnel Policy and Parents' Handbook respectively and to adhere to policies and procedures aimed at ensuring a positive work environment and the highest level of care for clients. Beyond this, there is a duty upon all to prevent violence and harassment by discouraging inappropriate activities and by reporting incidents in accordance with this policy.

If Lansing Co-operative Nursery School is aware or ought to be aware that domestic violence that is likely to expose a worker to physical injury may occur in the workplace, we will take every reasonable precaution to protect the worker.

### ***Rights***

Everyone has the right to:

- an environment that is free from violence and harassment
- to refuse work in various circumstances where both health or safety is in danger, to include the right to refuse work if workplace violence is likely to endanger the worker
- file a complaint when the environment is not free from violence and harassment
- be informed of complaints made against them
- obtain an investigation of the complaint without fear of embarrassment or reprisal
- have a fair hearing
- be kept informed throughout the process and of remedial action taken
- a fair appeal process for both the respondent and complainant
- confidentiality to the degree possible under the circumstances
- representation by a third party.

### ***Obligations***

The people in an organization have the responsibility to ensure the safety and health of all those who come in contact with Lansing Co-operative Nursery School, whether that contact is as clients, volunteers, employees or suppliers.

***Organizations*** are obligated legally to take all complaints seriously by:

- using due diligence, which is the obligation to take reasonable measures to provide appropriate service
- being very familiar with the harassment policy and following it closely
- following the process without bias
- documenting all information from the first disclosure to the final resolution
- recording only relevant facts without emotionality
- signing and dating all documents
- using common sense

### ***Employees and Volunteers Responsibilities***

- all employees and volunteers are responsible for contributing to a positive work environment and for identifying and discouraging comments or activities that are contrary to this policy; this includes:
  - advising people or the alleged harasser that their behaviour is unwelcomed
- where a situation occurs, or where an employee or volunteer believes a situation has occurred, they are obligated to report it to their Supervisor/manager
- if a situation occurs which involves their Supervisor/manager, or if their Supervisor/manager does not intervene appropriately, the employees/volunteers may report the situation to the Board
- if the situation involves the Supervisor, the employee is encouraged to report the circumstances to any Board member

### ***Supervisor Responsibilities***

- Supervisors are expected to eliminate all aspects of the work environment that are not in keeping with this policy, whether or not a complaint has been made; Supervisors are obligated to implement this policy, under the direction of the Board.

### ***Assessment***

Lansing Co-operative Nursery School must assess the risks of workplace violence and harassment and report the results to the workers. The risks must be reassessed as often as is necessary to protect workers from workplace violence.

The assessment will take into account;

- Circumstances that would be common to similar workplaces;
- Circumstances specific to the workplace; and
- Any other prescribed elements

### ***Communication***

Lansing Co-operative Nursery School will provide information to employees and volunteers about a risk of workplace violence from a person with a history of violent behaviour if the worker can expect to encounter that person in the course of work, and if the worker may be at risk of physical injury. Personal information may be disclosed, but only what is reasonably necessary to protect the worker from physical injury.

### ***Process***

Situations where there has been an accusation of violence or harassment are extremely sensitive and often complex. At all times, the emotional and physical safety of the complainant is paramount, and this may involve taking steps that are not outlined herein. In general, however, the following process should be taken:

Complaint Received → Mediate and/or Investigate → Action → Appeal

### ***Complaint***

In order to make an official complaint, a complainant should advise their Supervisor or the Board. Any individual who receives any complaint against an employee or volunteer must refer it to the Supervisor or Board. From here, there are the following possible actions:

- ***No Action:*** the behaviour is not found to be violence or harassment, and the complainant agrees
- ***Resolve:*** if the violence or harassment is subtle or mild and the complainant agrees, the complaint is resolved informally with the assistance of the Supervisor and/or Board
- ***Refer:*** if the complaint represents moderate or severe violence or harassment or if the incident involves an abuse of power, then the applicable member and the Board are to be notified and the complaint is referred to mediation, investigation or, in extreme circumstances, the police

- **Mediate:** the alleged harasser will be advised of the complaint, if this has not already happened; a mediator will be chosen and confirmed by the Board, and confirmed provided the parties to the complaint agree; in the case where there is no agreement, alternative names will be considered; mediation takes place and the situation is resolved to the satisfaction of both parties; if no agreement for either a name or process is secured, then the case is referred to investigation
- **Investigate:** where, for whatever reason, the complaint remains unresolved, then the Board will chose an appropriate investigator

The investigator will conduct a thorough and unbiased investigation and provide a written report, including recommendations for action, to the Board. The Board will make a decision as to the appropriate action.

- **Action:** When considering the appropriate action, the Board will consider the evidence, the nature of the violence or harassment, whether physical contact was involved, whether the situation was isolated, and whether there was an abuse of power. Actions may include:
  - verbal or written apologies
  - a letter of reprimand or suspension
  - a referral to counselling
  - sensitivity training
  - demotion
  - termination of employment and/or volunteer activity
  - referral to police or other legal authorities
  - other appropriate sanctions

### ***Appeal***

Either the complainant or alleged harasser may, within thirty (30) days of being notified of the action, submit an appeal, in writing, to the Board of Directors. In the event that the Board determines that further investigation is required, any additional findings shall be disclosed to the parties, who will be provided with an opportunity to respond. The Board will then review the record and determine whether or not a violation of the policy has occurred.

### ***Confidentiality***

- complaints of violence and harassment will be received and investigated in a confidential manner in accordance with the procedures, including prescribing corrective action; information that must be shared will be disclosed on a 'need-to-know' basis
- any allegation or complaint of discrimination, violence, harassment or sexual harassment will be considered personal information 'supplied in confidence'; the name of the complainant or the circumstances of the complaint will not be disclosed to any person except where disclosure is necessary for the purpose of investigating the complaint; the substance of investigative reports and the substance of meetings held by those in authority regardless of whether it is substantiated, will be protected from disclosure to third parties, except where required for legal reasons
- strict confidentiality cannot be guaranteed to anyone who wants to make a complaint of violence and harassment; if a complaint goes through an investigation, the respondent

and other people involved will have to learn about the complaint; the complainant can be assured that only people who ‘need-to-know’ will be told of the complaint

- no investigation information is to be kept on the employee/volunteer’s personnel file with the exception of official disciplinary/termination papers; similar to problem resolution cases, violence or harassment investigation information should be kept indefinitely in a separate file; proven allegations of violence, harassment or sexual harassment, including disciplinary action taken shall be documented and form part of the employee/volunteer’s permanent record

### ***Disciplinary Action***

Violence and harassment by an employee or volunteer is a serious offence. If an accusation is substantiated, the harasser will be subject to immediate disciplinary action, up to and including dismissal. Intentionally accusing someone of violence or harassment, known to be false, is a serious offence and is subject to disciplinary action. Lansing Co-operative Nursery School reserves the right to discipline those whose complaints are frivolous or vexatious.

Any interference with the conduct of an investigation, or retaliation against a complainant, respondent or witness, may itself result in disciplinary action. Criteria in determining level of disciplinary action shall be based on fact scenario and will take into account harm to the individual, harm to Lansing Co-operative Nursery School and its reputation, and whether or not there was an unequal power relationship.

Where the conduct involves, or may involve, criminal activity, Lansing Co-operative Nursery School reserves the right to refer to a Police authority who may decide to invoke criminal charges.

### ***Human Rights Commission***

Nothing in this policy shall be deemed to limit the right of an employee or volunteer to seek assistance from Ontario’s Human Rights Commission.

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Workplace Violence Legislation (Bill 168) (full text):

[http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=2181&BillStagePrintId=4499&btnSubmit=go](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2181&BillStagePrintId=4499&btnSubmit=go)

Workplace Violence and Harassment: Understanding the Law:

<http://www.labour.gov.on.ca/english/hs/pubs/wpvh/index.php>