



BY-LAW NO. 362-2016
A BY-LAW TO ESTABLISH POLICY COMPLIANCE WITH THE
ONTARIO OCCUPATIONAL HEALTH AND SAFETY ACT
FOR VIOLENCE AND HARASSMENT PREVENTION IN THE WORKPLACE

1 PREAMBLE

- 1.1 WHEREAS Bill 168, an Act to amend the *Occupational Health and Safety Act*, became law in December 2009, with an implementation date of June 15, 2010. The Bill made legislative amendments to the *Occupational Health and Safety Act* to further protect workers from violence and harassment in the workplace;
- 1.2 AND whereas Bill 132, an Act to amend the *Occupational Health and Safety Act*, became law on March 8, 2016 with an implementation date of September 8, 2016. The Bill made legislative amendments to the *Occupational Health and Safety Act* to require employers to develop policies and programs to prevent harassment, including sexual harassment, in the workplace;
- 1.3 AND whereas subsection 31(1) of the *Police Services Act* provides that a Board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall:
- (b) generally determine, after consultation with the Chief of Police, objectives and priorities with respect to the police services in the municipality;
 - (c) establish policies for the effective management of the police force;
 - (e) direct the Chief of Police and monitor his or her performance;
- 1.4 AND whereas a Police Services Board may, by by-law make rules for the effective management of the police service under Section 31(6) of the *Police Services Act*;
- 1.5 AND whereas, O. Reg. 3/99 prescribes standards for adequacy and effectiveness of police services;
- 1.6 AND whereas, Part AI-003 of the Policing Standards Manual (2000), Equal Opportunity, Discrimination and Workplace Harassment Prevention, requires procedures on responding to and preventing discrimination and harassment in the workplace (see Board By-law 331-2012);
- 1.7 AND whereas, Part AI-016 of the Policing Standards Manual (2000), Workplace Violence Prevention, requires procedures on responding to and preventing workplace violence;
- 1.8 AND whereas, any management response to allegations related to this By-law against sworn members of the police service must adhere to the procedural requirements of Part V of the *Police Services Act*, and to Regulation 123/98;

1.9 AND whereas the disclosure of any personal information concerning a member of the police service must conform to the requirements of the *Police Services Act* and the *Municipal Freedom of Information and Protection of Privacy Act*.

NOW THEREFORE THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD ENACTS AS FOLLOWS:

2 DEFINITIONS

2.1 “*Board*” means the Regional Municipality of Niagara Police Services Board;

2.2 “*Chief*” means the Chief of Police of the Niagara Regional Police Service;

2.3 “*Member*” means all employees of the Niagara Regional Police Service including temporary, contract, part-time staff and volunteers;

2.4 “*Ministry*” means the Ministry of Community Safety and Correctional Services;

2.5 “*Person in authority*” means a supervisor, manager, director or senior officer;

2.6 “*Prohibited Grounds*” under the *Ontario Human Rights Code* are: race, creed, colour, ancestry, place of origin, ethnic origin, language or dialect spoken, citizenship, sex, sexual orientation, age, marital status, family status, physical or mental disability, criminal charges or criminal record;

2.7 “*Service*” means the Niagara Regional Police Service.

2.8 “*Workplace*” means any and all locations where business or social activities of the police service are conducted, including external training facilities such as the Ontario Police College and other locations where members may be assigned during periods of secondment;

2.9 “*Workplace Harassment*” means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. Workplace harassment may be, but is not limited to, an action or behaviour related to prohibited grounds or discrimination under the *Ontario Human Rights Code*, and includes Workplace Sexual Harassment as defined below.

2.10 “*Workplace Sexual Harassment*” means:

- (i) Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity, or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
- (ii) Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

2.11 “*Workplace Violence*” means:

- (i) The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;

- (ii) An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker;
- (iii) 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.

3 BOARD POLICY

3.1 The Board is committed to providing a safe and healthy work environment for the Members of the Niagara Regional Police Service and the prevention of workplace harassment and violence. The Board recognizes that unwanted behaviours in the workplace must be addressed early to minimize the potential for workplace harassment and/or workplace violence. Workplace violence and harassment are serious conduct matters that may constitute a violation of Canada's *Criminal Code*, the *Ontario Human Rights Code*, or the *Occupation Health and Safety Act*. The Board is committed to compliance with the various legislative requirements therefore, it is the policy of the Board that workplace violence and harassment issues be dealt with in accordance with the procedures set out by the Chief as established and directed in this by-law.

4 DIRECTION TO THE CHIEF

4.1 WORKPLACE VIOLENCE AND HARASSMENT PREVENTION PROCEDURES

The Chief of Police shall:

- 4.1.1 Take all reasonable steps to protect members from workplace harassment or violence.
- 4.1.2 Develop and implement a written workplace violence and harassment prevention policy and shall review the policy annually.
- 4.1.3 Ensure that the policy is posted in a conspicuous place in the workplace.
- 4.1.4 Ensure that the members of the Service are educated with respect to the policy.
- 4.1.5 Ensure that the policy addresses the circumstances in which a member may refuse to work when workplace violence is likely to endanger himself or herself. The policy must address the occupational requirements of a police officer in relation to any work refusal.
- 4.1.6 Ensure that the safety of all members is addressed during the course of an investigation into workplace violence. Members may be reassigned in the interests of safety.
- 4.1.7 Ensure that the operational policing duties in relation to an investigation into workplace violence are addressed in a manner that is free of any conflict of interest.
- 4.1.8 Ensure that the right to refuse work is subject to Section 43(1) and 43(2)(a) of the *Ontario Occupational Health and Safety Act*, which stipulates that anyone employed in a police service cannot assert the right to refuse to work when the particular job or task is inherent in the employee's work; is a normal condition of the member's employment; or when a refusal to work would directly endanger the life, health or safety of another person.

- 4.1.9 Shall provide information and instruction that is appropriate for the member on the contents of the policies, procedures and programs on workplace harassment, discrimination and workplace violence and any other prescribed information.
- 4.1.10 Ensure that:
- (a) an investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;
 - (b) the member who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a Service member, are informed in writing of the results of the investigation and of the corrective action that has been taken or that will be taken as a result of the investigation;
 - (c) the program developed is reviewed as often as necessary, but at least annually, to ensure it adequately implemented the Board's policy with respect to workplace harassment required under the *Ontario Occupational Health and Safety Act*; and
 - (d) such other duties as may be prescribed are carried out.
- 4.1.11 Shall appoint a member in the workplace to act as a workplace co-ordinator with respect to issues related to workplace violence and harassment.

4.2 WORKPLACE VIOLENCE PROGRAM

- 4.2.1 The Chief of Police shall, in consultation with the joint health and safety committee or a health and safety representative, if any, develop and maintain a written program to implement the policy with respect to workplace violence as prescribed by the *Ontario Occupational Health and Safety Act*.
- 4.2.2 The workplace violence program shall include, but is not limited to, the following:
- (i) Measures and procedures to control the risks identified in the workplace risk assessment as likely to expose a member to physical injury;
 - (ii) Measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur;
 - (iii) Measures and procedures for members to report incidents or complaints of workplace violence to the employer or person in authority;
 - (iv) Set out how the Service will investigate and deal with incidents or complaints of workplace violence and harassment; and
 - (v) Include any elements prescribed by legislation.
- 4.2.3 Provide members with appropriate information and training on the contents of the workplace violence policy and program.
- 4.2.4 Ensure that members with supervisory responsibilities are held accountable for promoting and implementing available health and safety programs, for complying with the *Occupational Health and Safety Act*, and for ensuring that workplaces under their supervision are maintained in a healthy and safe condition.

4.3 WORKPLACE VIOLENCE AND WORKPLACE HARASSMENT PREVENTION PROGRAM

- 4.3.1 The Chief of Police shall, in consultation with the joint health and safety committee or a health and safety representative, if any, develop and maintain a written program to implement the policy with respect to workplace violence and workplace harassment as prescribed by the *Ontario Occupational Health and Safety Act*.

- 4.3.2 The workplace violence and harassment prevention program shall include, but is not limited to, the following:
- (i) Measures and procedures for members to report incidents of workplace harassment to the employer or supervisor;
 - (ii) Measures and procedures for members to report incidents of workplace harassment to a person other than the employer or supervisor, if the employer or supervisor is the alleged harasser;
 - (iii) Measures and procedures for the investigation of incidents and complaints of workplace harassment; and
 - (iv) Sets out how information obtained about an incident or complaint about workplace harassment including identifying information about individuals involved will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint or is otherwise required by law;
 - (v) Sets out how a member who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, will be informed of the results of the investigation and of any corrective action taken or that will be taken as a result of the investigation; and
 - (vi) Include any elements prescribed by legislation.
- 4.3.3 Provide members with appropriate information and training on the contents of the workplace violence and harassment prevention policy and program.

4.4 *WORKPLACE VIOLENCE – ASSESSMENT OF RISK*

- 4.4.1 The Chief shall ensure that a workplace violence risk assessment is undertaken. This assessment shall consider the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work.
- 4.4.2 The workplace violence risk assessment shall take into account the following considerations:
- (i) Circumstances that would be common to similar workplaces;
 - (ii) Circumstances specific to the workplace; and
 - (iii) Any other prescribed elements.
- 4.4.3 The Chief shall ensure that the results of the workplace violence risk assessment are provided to the Joint Occupational Health and Safety Committee.
- 4.4.4 The Chief shall reassess the risks of workplace violence as often as is necessary to ensure that the related policy and program continue to protect workers from workplace violence.

4.5 *DOMESTIC VIOLENCE*

The Chief of Police shall:

- 4.5.1 Ensure that measures are in place to address the risk of domestic violence in the workplace.
- 4.5.2 Take every precaution reasonable in the circumstances for the protection of a member if a person in authority becomes aware or ought reasonably to be aware of domestic violence that would likely expose a worker to physical injury that may occur in the workplace.

4.6 **DISCLOSURE OF PERSONAL INFORMATION**

4.6.1 The Chief shall ensure that a member receives information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if the member can be expected to encounter that person in the course of his or her work; and the risk of workplace violence is likely to expose the member to physical injury.

4.6.2 If the circumstances require the disclosure of personal information, the Chief shall ensure that no person in authority discloses more personal information than is reasonably necessary to protect the member from physical injury.

4.6.3 Any disclosure of personal information shall be in compliance with the provisions of the *Police Services Act* and the *Municipal Freedom of Information and Protection of Privacy Act*.

5 ANNUAL REPORTING REQUIREMENTS

5.1 On an annual basis, the Chief shall make a written report to the Board. The report shall include the following information:

- (i) A summary of the written procedures with respect to the workplace violence and harassment prevention policy;
- (ii) Confirmation of compliance with the policies and procedures regarding workplace violence and harassment; and
- (iii) Results of the program evaluation to reassess the risks of workplace violence to ensure that the related policy and programs continue to protect workers from workplace violence.

6 IMPLEMENTATION

6.1 By-law Nos. 298-2010 and 332-2013 as amended, and all other By-laws, sections of By-laws and policies of the Board inconsistent with the provisions of this By-law are hereby repealed.

6.2 This By-law shall come into force upon the date of its passage.

6.3 The Chief shall implement this By-law, where applicable, through general order.

ENACTED AND PASSED this 24th day of November, 2016.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

Chair _____

Executive Director _____