

**SENATE**



**SÉNAT**

**Human Resources Directorate**

**CANADA**

**Direction des ressources humaines**

# **SENATE POLICY ON THE PREVENTION AND RESOLUTION OF HARASSMENT IN THE WORKPLACE**

This policy was adopted by the Standing Committee on  
Internal Economy, Budgets and Administration on:

**June 11, 2009**

And adopted by the Senate on:

**June 22, 2009**

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# **1. INTRODUCTION**

## **1.1 Name**

This policy is called the “*Senate Policy on the Prevention and Resolution of Harassment in the Workplace*”.

## **1.2 Purpose**

The purpose of this policy is to:

- prevent harassment by insisting on respectful treatment for all, by making everyone aware of his/her responsibilities and by encouraging open communication;
- ensure that any allegation of harassment is taken seriously and addressed with sensitivity, promptness and discretion;
- encourage early identification of problematic situations and their early and informal resolution;
- provide procedures for the speedy and effective resolution of harassment allegations; and
- provide for remedial, corrective or disciplinary measures, up to and including termination of employment in the case of employees, in situations where harassment is found to have occurred.

## **1.3 Authority**

This policy was approved by the Senate Standing Committee on Internal Economy, Budgets and Administration on June 11, 2009 and replaces the former policy, contained in the Fiftieth Report of the Standing Committee on Internal Economy, Budgets and Administration (tabled in the Senate on June 15, 1993) and the Forty-Ninth Report of the Standing Committee on Internal Economy, Budgets and Administration (adopted by the Senate on June 23, 1993), which were repealed by the Senate on June 22, 2009.

This policy come into effect upon the repeal of the former policy.

## **1.4 Application**

The *Senate Policy on the Prevention and Resolution of Harassment in the Workplace* applies to the conduct of all persons in the Senate workplace, including Senators, staff of Senators, employees of the Senate Administration, contractors and their staff, and volunteers. However, in keeping with the *Senate Administration Regulations*, this policy includes distinct procedures for persons falling under the administrative authority of the Standing Committee of Internal Economy, Budgets and Administration and those falling within the purview of the Clerk of the Senate and Clerk of the Parliaments (the Clerk).

Although this policy does not apply to harassment by the public, employees are not expected to tolerate offensive or threatening behavior in the course of their work. Should this occur, employees should notify their supervisors immediately and supervisors should take appropriate action.

The Senate workplace includes all permanent areas of the Senate and every place under the control of the Senate in which it is temporarily conducting its business. The policy also applies to work-related activities conducted away from the Senate workplace.

## **1.5 Definitions**

### **Harassment**

Any improper conduct by an individual, that is directed at and offensive to another person or persons in the workplace, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat. The conduct may be done on a one time basis or in a continuing series of incidents. Sexual harassment, discrimination within the meaning of the *Canadian Human Rights Act*, abuse of authority and making a complaint in bad faith are considered forms of harassment under this policy.

Harassment does not include normal managerial activities as long as these are not being done in a discriminatory or abusive manner.

### **Sexual Harassment**

Any conduct, comment, gesture or contact of a sexual nature, whether on a one-time or recurring basis, that might reasonably be expected to cause offence or humiliation, or might reasonably be perceived as placing a condition of a sexual nature on employment, training or promotion.

### **Abuse of Authority**

Improperly using a position of authority or power to endanger another person's job, undermine job performance, threaten the person's livelihood or negatively interfere with his or her career. It includes humiliation, intimidation, threats and coercion.

### **Bad Faith** (also known as abuse of process)

Using this policy, or the complaint process, for purposes other than for its stated objectives, in particular: to injure the reputation of the person against whom the complaint is made or with reckless disregard for the reputation of that person. Unfounded complaints are not necessarily considered to be in bad faith.

### **Discrimination**

Improper conduct that is discriminatory under the *Canadian Human Rights Act*, including harassment of a person because of his or her race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital or family status, disability and pardoned conviction.

### **Formal Complaint**

A signed statement identified as a formal complaint of alleged harassment which is based on actions defined as harassment and is submitted to the Director of Human Resources within one (1) year of the alleged incident(s) leading to the complaint.

### **Informal Resolution Processes**

Practices, including counselling, coaching, facilitation or mediation which may assist the parties to resolve their differences in a timely and appropriate fashion.

### **Mediation**

A voluntary process used to resolve conflict by having a third party help the disputing persons arrive at a mutually acceptable solution.

## **1.6 Description**

Harassment is unacceptable and will not be tolerated in the Senate workplace. This policy emphasizes prevention and informal resolution while establishing procedures, as well as roles and responsibilities, to respond to formal harassment complaints should they arise.

## **1.7 Inquiries**

Requests by employees for information regarding the policy should be addressed to the Manager responsible for labour relations in the Human Resources Directorate. Senators may address their requests for information to the Chair or the Deputy Chair of the Standing Committee on Internal Economy, Budgets and Administration (hereafter referred to as the Committee).

## **2. POLICY**

### **2.1 Context**

Everyone has a right to be treated with respect and a responsibility to treat others the same way. It is in the best interests of everyone to foster a work environment that supports respect and dignity and prevents harassment by promoting awareness and early informal problem resolution.

Harassment not only affects the well being of the individual subjected to it, it can also poison the work environment. The Senate believes that a work environment where conflicts are resolved constructively and expeditiously and where harassment is not tolerated contributes to the health and well-being of individuals in the workplace.

To prevent harassment:

- All communications and interactions should be professional and respectful. Showing courtesy and politeness can go a long way to preventing misunderstandings that could be perceived as harassment.
- What is considered harmless by one person may be considered offensive by another. Individuals should be sensitive to how others react to their remarks and behaviour. Body language is important: non-verbal behavior, such as facial expressions, posture, tone of voice or silence, may indicate that another person is not comfortable with your behavior.
- When offended by the conduct of someone else, individuals should make their objections known to that person in a non-confrontational manner. Individuals not comfortable raising their concerns directly with the other person, should do so through their supervisor, a Human Resources Advisor or their union representative (where applicable). They may also wish to contact the Employee Assistance Program.
- If someone finds your conduct offensive, try to understand how that person feels without judging them. Stop the behavior that the person finds offensive. A sincere apology at the appropriate time will often prevent the conflict from escalating and in many cases, resolve the conflict and preclude a harassment complaint.
- Managers should lead by example. Be extra vigilant because supervised employees are sometimes reluctant to express their concerns to a supervisor.
- Managers should monitor the workplace. Be proactive in addressing conduct that might reasonably be considered offensive by others in the workplace. Pay attention to tensions between employees; speak privately to each to determine if there is a conflict. Show willingness to help them resolve the source of the conflict.
- Employees, staff, managers and others are encouraged to contact the Human Resources Directorate for guidance or advice on workplace conflicts and the application of this policy.

## **2.2 Guiding Principles**

### **2.2.1 Procedural Fairness**

The parties to a dispute have the right to be informed, to be heard and to obtain an impartial decision.

### **2.2.2 Timeliness**

All complaints should be dealt with promptly, normally within six (6) months or less, and any remedial, corrective or disciplinary action should be implemented expeditiously and consistently. If there are extenuating circumstances as determined by the Director of Human Resources or the Government and Opposition Whips, timelines in this policy may be extended.

### **2.2.3 Confidentiality**

Appropriate steps will be taken to ensure the confidentiality of all inquiries, complaints and related records is respected, subject to procedural fairness or to any disclosure required by this policy or by law. Disciplinary measures may be taken against an individual who inappropriately discloses information.

## **2.3 General**

2.3.1 Senators, Director Generals and Directors or equivalents are responsible for fostering a work environment free of harassment.

2.3.2 Senators, staff of Senators, employees, contractors and volunteers must be informed of this policy.

2.3.3 Early resolution approaches should be used to resolve problems at the outset.

2.3.4 Informal resolution should be attempted prior to the submission of a formal complaint except where the Director of Human Resources determines it would not be appropriate.

2.3.5 The complaint process, including an investigation if necessary, should be completed without undue delay, normally within six (6) months or less.

2.3.6 The Director of Human Resources will ensure that complainants and respondents are informed of the status of their cases in the resolution process in a timely manner.

2.3.7 Harassment may result in corrective or disciplinary measures being taken, up to and including termination of employment. Disciplinary or corrective measures may also be taken against anyone who interferes with the resolution of a complaint by threats, intimidation or retaliation and anyone who files a complaint in bad faith.

2.3.8 Corrective action must be timely in all situations of harassment.

## **3. ROLES AND RESPONSIBILITIES**

### **3.1 Standing Committee on Internal Economy, Budgets and Administration (Committee)**

The Committee is responsible for:

- a) approving the policy, procedures and any related amendments;
- b) fostering a work environment free of harassment;
- c) communicating the policy to Senators;
- d) ensuring that the policy is implemented and appropriately applied; and
- e) deciding whether a formal complaint, in which the Clerk is a respondent, is founded (or not) and determining any remedial, corrective or other measures that should be taken.

### **3.2 Steering Committee of the Standing Committee on Internal Economy, Budgets and Administration**

The Steering Committee may act on behalf of the Standing Committee on Internal Economy, Budgets and Administration as regards this policy.

### **3.3 The Government and Opposition Whips**

With regard to complaints against Senators or members of their staff, the Government and Opposition Whips are responsible for:

- a) reviewing complaints;
- b) deciding whether formal complaints are founded or unfounded;
- c) appointing investigators or review panels to investigate the complaints; and
- d) recommending and implementing any remedial, corrective or other measures.

*The Deputy Leader of the Government may act in the place of the Government Whip and the Deputy Leader of the Opposition may act in the place of the Opposition Whip under this policy.*

### **3.4 The Deputy Leaders of the Government and Opposition**

The Deputy Leaders are responsible for:

- a) dealing with complaints about the conduct of the Government or Opposition Whips; and
- b) recommending and implementing any remedial, corrective or other measures.

### **3.5 Clerk of the Senate**

The Clerk is responsible for:

- a) fostering a work environment free of harassment within the Senate Administration;
- b) ensuring that the policy is implemented and appropriately applied in the Senate Administration;
- c) taking appropriate action in cases of non-compliance with the policy;
- d) looking into the handling of complaint resolution upon the request of complainants or respondents;
- e) reviewing complaints about the conduct of the Director of Human Resources;
- f) deciding whether formal complaints involving employees of the Senate Administration or persons under his/her administrative jurisdiction are founded or unfounded; and
- g) determining any remedial, corrective, disciplinary or other measures that will be taken against employees of the Senate Administration or persons under his or her administrative jurisdiction.

### **3.6 Director of Human Resources**

The Director of Human Resources is responsible for:

- a) communicating the policy to employees, Senators' staff and contractors (retained through the HR Directorate);
- b) providing leadership and guidance in the overall management of the policy;
- c) receiving and acknowledging formal harassment complaints;
- d) ensuring parties are aware of their rights and responsibilities;
- e) appointing mediators and, in cases of complaints about the conduct of persons other than Senators and Senators' staff, investigators;
- f) directing formal complaints to the appropriate resolution process;



- g) ensuring that complainants and respondents are informed of the evolution of their case in a timely manner; and
- h) ensuring that complainants and respondents are notified, as well as their managers, of the final determination of complaints.

### **3.7 Director of Finance**

The Director of Finance is responsible for:

- a) ensuring that compliance with this policy is a condition of contracts with the Senate; and
- b) communicating the policy to contractors (retained through the Finance Directorate).

### **3.8 Managers**

**N.B. For greater clarity, a Senator is the manager of his or her office.**

Managers are responsible for:

- a) leading by example and acting respectfully in dealings with employees and other persons;
- b) fostering a positive, respectful work environment that is conducive to open and frank communication and free of harassment;
- c) supporting and applying the policy;
- d) communicating the policy to volunteers and contractors;
- e) acting promptly to resolve or to bring to the attention of the appropriate level of management, any harassment of which they are aware, whether or not a complaint has been made;
- f) cooperating fully during the complaint process;
- g) separating, if deemed necessary and operationally feasible, the complainant and the respondent - hierarchically, physically or both - for the duration of the formal complaint process;
- h) ensuring that, regardless of the nature or status of the resolution process, persons who believe that they have been the subject of harassing behaviour are aware of the support and assistance available to them through the Employee Assistance Program; and
- i) subject to delegation of authority, and in consultation with the Director of Human Resources, implementing corrective or disciplinary measures when necessary.

### **3.9 Senators, Staff of Senators, Employees, Contractors and their Staffs, and Volunteers**

Senators, staff of Senators, employees, contractors and their staff, and volunteers are responsible for:

- a) ensuring that their own conduct contributes to a harassment free work environment;
- b) acting in a respectful manner in dealings with others;
- c) being familiar with this policy and its related procedures;
- d) informing individuals, if possible, whose conduct is offensive that their behaviour is objectionable and unwelcome and asking them to stop;
- e) making every effort to resolve any conflicts in which they may be involved, as soon as they arise and before they escalate;
- f) respecting the confidentiality of complainants and respondents by avoiding any informal discussion of harassment complaints of which they have knowledge;
- g) bringing to the attention of their supervisor (where applicable) any harassment to which they are subjected or of which they become aware; and
- h) cooperating in the resolution or investigation of harassment cases.

### **3.10 Complainants**

Complainants are responsible for:

- a) assessing the possibility of a misunderstanding arising out of lack of knowledge, misconstrued intent or differing values;
- b) informing (in a timely manner) if comfortable in doing so, personally or through an appropriate intermediary, the individual whose conduct is of concern, that such conduct is objectionable and unwelcome in a timely manner;
- c) keeping a record of the incident(s), including a description of the offensive conduct, date(s), time(s), location(s) and the names of witnesses, if any;
- d) seeking advice from a qualified and trusted person (e.g., manager, an advisor in the Human Resources Directorate, a union representative or the Employee Assistance Program);
- e) participating in informal resolution processes up to and including mediation before lodging a formal complaint except where the Director of Human Resources deems that such means are not appropriate in the circumstances; and
- f) cooperating with persons designated to mediate, review, or investigate complaints.

### **3.11 Respondents**

Respondents are responsible for:

- a) discussing the matter with the complainant as soon as possible, if asked;
- b) stopping the conduct that is considered to be offensive to the other party and remedying the situation with an appropriate gesture given the circumstances, such as an apology;
- c) seeking advice from a qualified and trusted person (e.g., manager, an advisor in the Human Resources Directorate, a union representative, the Employee Assistance Program); and
- d) cooperating with persons designated to mediate, review or investigate complaints.

### **3.12 All Persons Associated with a Complaint (including Witnesses)**

Persons associated with a complaint are responsible for limiting discussion of the complaint and the disclosure of related information to those people who need to know.

## **4. PROCEDURES**

### **4.1. Informal and Formal Resolution Processes**

4.1.1 The complaint resolution process as defined in this policy applies to Senators, staff of Senators, and employees of the Senate Administration. While it does not apply to contractors and their staff and volunteers who work for the Senate, harassment concerns or complaints pertaining to such persons will be addressed in a manner consistent with this policy.

4.1.2 All persons are expected to respect the confidentiality of matters in the informal and formal resolution process by limiting discussions of such matters and the disclosure of information to those people who need to know.

### **4.2 Step 1 - Informal Resolution**

4.2.1 The objective of informal resolution is to correct any situation, problem or conflict as soon as possible and in a fair and respectful manner without having to resort to the formal complaint process. Every effort should be made to resolve the problem in a timely manner with open communications and cooperation.

- 4.2.2 An allegation of harassment is serious. If a person working at the Senate believes that he or she has been harassed, the following actions should be taken:
- make it known to the other party as soon as possible that such conduct is offensive in an attempt to resolve the problem before it can escalate; and
  - if the problem is not resolved or if the offended person does not wish to speak directly with the other person, the offended person should meet with his or her supervisor or seek advice from a qualified and trusted person (e.g. the responsible Whip, a manager, an advisor in the Human Resources Directorate, their union representative where applicable or the Employee Assistance Program).
- 4.2.3 Management must make every effort to resolve the issue between the parties as quickly as possible, if necessary with the assistance of a resource person.
- 4.2.4 Problem resolution mechanisms such as coaching, counselling, facilitation and mediation can in many instances resolve the issue and prevent the situation from escalating to the point where a formal complaint is filed.
- 4.2.5 Informal resolution processes including mediation should be attempted by the parties prior to the submission of a formal complaint except where the Director of Human Resources determines that it would not be appropriate.
- 4.2.6 Whenever mediation is accepted, the Director of Human Resources will inform, as appropriate, the Government or Opposition Whip and/or the manager(s) of the complainant and the respondent.

### **4.3 Step 2 - Filing a Formal Complaint**

- 4.3.1 If the informal process for dealing with a harassment situation does not succeed or is determined to not be appropriate in the circumstances by the Director of Human Resources, then the complainant may file a formal written complaint.
- 4.3.2 Mediation remains available at any point in the formal complaint process. The formal investigation will be suspended if both parties agree to mediation. Should efforts to mediate a formal complaint fail, the investigation resumes.
- 4.3.3 Complainants and respondents may have with them, during meetings and interviews related to the resolution of the complaint, a person of their choice who has agreed to accompany them and who is not a party to the process. Such persons must adhere to the confidentiality provisions of this policy.
- 4.3.4 A formal complaint must be submitted, in writing, to the Director of Human Resources no later than one (1) year after the alleged incident(s) leading to the complaint.
- 4.3.5 Formal complaints must be based on allegations defined as harassment, signed, dated and include:
- a) the complainant's name;
  - b) the name of the respondent and the relationship of the respondent to the complainant, e.g. supervisor, colleague;
  - c) the nature of the allegations;
  - d) date and description of the incident(s);
  - e) where the incident(s) occurred; and
  - f) names of witnesses, if any.

#### **4.4 Step 3 - Screening and Acknowledgement of a Formal Complaint**

- 4.4.1 The complaint will be reviewed by the Director of Human Resources to determine:
- a) that it meets the requirements of a formal complaint;
  - b) that the allegations meet the definition of harassment; and
  - c) whether or not an external process has been initiated.
- 4.4.2 If the complaint meets the above criteria, the Director of Human Resources will send an acknowledgement to the complainant and provide a copy of the complaint to the respondent. The Director will also inform the Government and Opposition Whips if the case involves a Senator or a member of a Senator's staff and/or the manager(s) of the complainant and respondent.
- 4.4.3 If the complaint does not meet the formal complaint criteria, the Director of Human Resources will inform the complainant in writing that he or she cannot accept the complaint and outline the reasons. If appropriate, other means of resolving the issue may be suggested.
- 4.4.4 Should the complainant have initiated another recourse process, the Director of Human Resources will determine the appropriate action to take.

#### **4.5 Step 4 - Review of a Formal Complaint**

- 4.5.1 Within fifteen (15) working days of accepting a formal complaint about the conduct of an employee of the Senate Administration, or other persons under the administrative jurisdiction of the Clerk, the Director of Human Resources will:
- not undertake an investigation and make a recommendation concerning the complaint to the Clerk for a decision in the event that he/she is satisfied that all the pertinent facts are known and that the parties have been heard; or
  - appoint an impartial and experienced person from within or from outside the Senate Administration to conduct an investigation of the complaint.
- 4.5.2 If a complaint concerns the conduct of a Senator or Senator's staff, the Government and Opposition Whips will within fifteen (15) working days of being notified of the formal complaint:
- not undertake an investigation and render a decision in the event that they are satisfied that all the pertinent facts are known and that the parties have been heard; or
  - appoint an impartial and experienced person or a review panel consisting of the Government and Opposition Whips, or their nominees, and a third panel member selected by the first two members, to investigate the complaint.
- 4.5.3 Where a complaint is about the conduct of the Government Whip or the Opposition Whip, the Director of Human Resources shall notify the Deputy Leaders of the Government and the Opposition, who will act in the place of the Government and Opposition Whips.
- 4.5.4 Where a complaint is about the conduct of the Clerk, the Director of Human Resources shall so advise the Chair and Deputy Chair of the IEC and shall thereafter take instructions relating to the complaint from the Chair and Deputy Chair to the exclusion of the Clerk.
- 4.5.5 Where a complaint is about the conduct of the Director of Human Resources, the Clerk shall take all steps normally taken by the Director.

## **4.6 Step 5 - Appointment of Investigator or Review Panel**

- 4.6.1 Within five (5) working days of being notified by the Director of Human Resources of the identity of the investigator or the panel members, the respondent and/or the complainant may show cause why a person should not serve as an investigator or panel member, in which case a replacement may be appointed.

## **4.7 Step 6 - Investigation**

- 4.7.1 The steps taken and the procedures used by the investigator or the review panel are at their discretion, subject to the rules of procedural fairness.
- 4.7.2 If during the course of the investigation, the investigator or the review panel is presented with what is deemed to be a new allegation of harassment, the investigator or the panel will consult with the Director of Human Resources or the Government and Opposition Whips, as appropriate, to determine whether the:
- new allegation falls within the existing mandate;
  - mandate will be modified to address the new allegation; or
  - new allegation should be addressed separately.
- 4.7.3 Communications with an investigator or the review panel are confidential except in so far as it may be necessary to disclose them in the investigation report, to ensure procedural fairness or as may be required by this policy or by law.
- 4.7.4 The investigator or the review panel shall provide a draft report to the complainant and the respondent within sixty (60) working days of being appointed. Once received, the complainant and the respondent have ten (10) working days to submit any comments, in writing, to the investigator or the review panel.
- 4.7.5 The final report will be submitted to the Director of Human Resources or the Government and the Opposition Whips, as appropriate, within a further five (5) working days. Both the complainant and the respondent will receive a copy of the final report.
- 4.7.6 The complainant and the respondent may each make a final submission, in writing, to the Director of Human Resources or the Government and Opposition Whips, as appropriate, within five (5) working days of receiving the final report. A copy of each party's submission will be provided to the other party.

## **4.8 Step 7 - Decision**

- 4.8.1 Within fifteen (15) working days of receiving the final report and the parties' final submissions, the Clerk or the Government and Opposition Whips, as appropriate, will determine whether the complaint allegation(s) are founded or unfounded and the complainant and respondent, as well as their managers, will be informed of this determination.
- 4.8.2 If a complaint is founded, the Clerk or the Government and Opposition Whip, as appropriate and in consultation with the Director of Human Resources, will determine any remedial, corrective, disciplinary or other measures that will be taken and will notify both the complainant and the respondent that measures will be taken. The terms of any settlement of a complaint will only be made known to the extent that is required by the settlement itself.

## **4.9 Procedural Review**

- 4.9.1 If a complainant or respondent has concerns with the administration of their complaint, he and/or she may, at any time during the resolution process, request that the Clerk look into the concerns. The Clerk may, at his or her sole discretion, take or recommend remedial actions as warranted.

#### **4.10 Other Recourse**

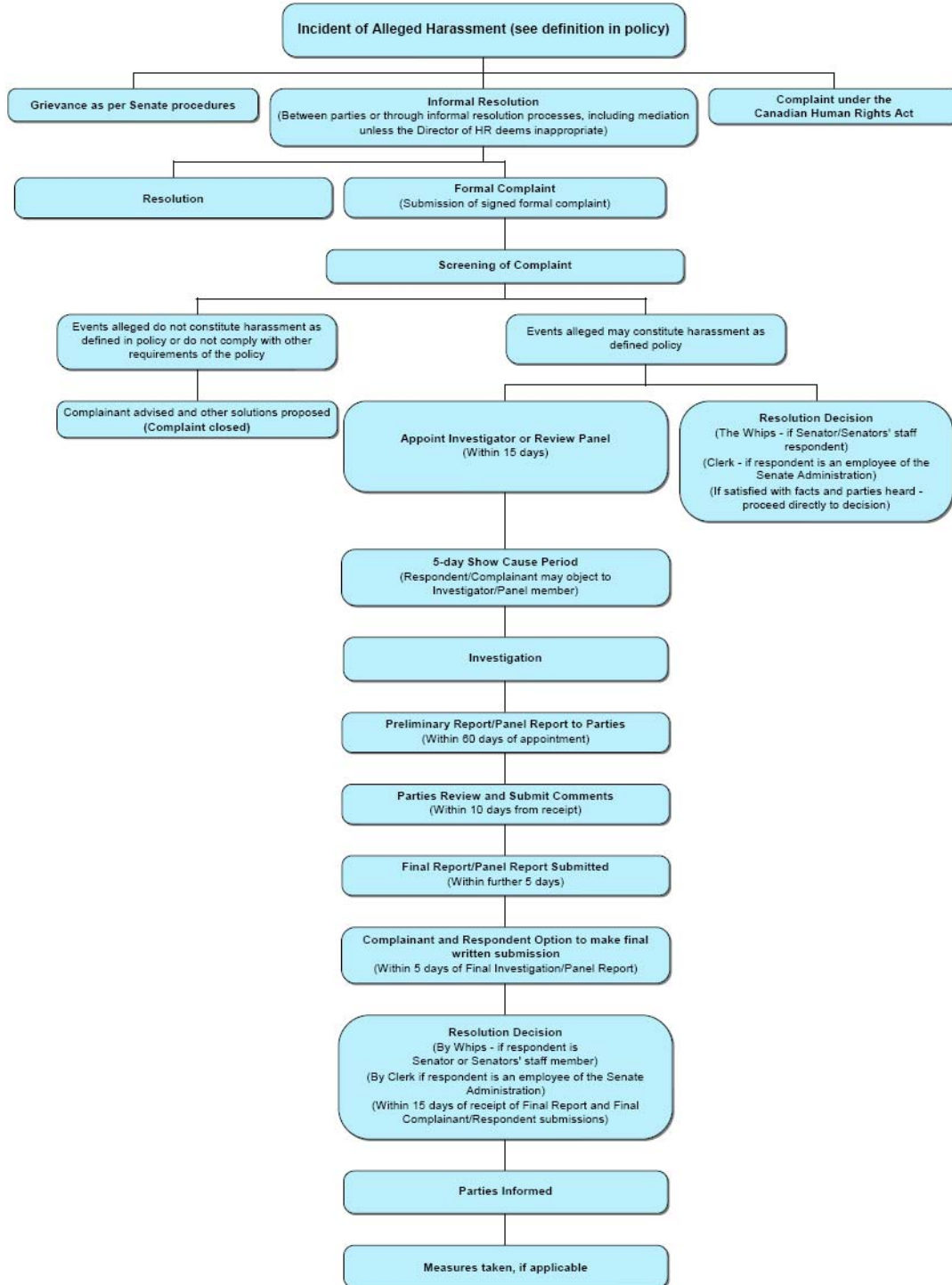
- 4.10.1 Employees who believe that they have been harassed have the right to grieve in accordance with their respective collective agreements or terms and conditions of employment. In some situations, it may be possible to complain under the *Canadian Human Rights Act*. Assaults, including sexual assaults, are covered by the *Criminal Code* and in such cases the police should be contacted.

### **5. REVIEW AND EVALUATION**

- 5.1 The Director of Human Resources will present statistical reports, as required, to the Clerk on the incidence and disposition of harassment complaints. The Director may also make recommendations for changes to the policy, including its Appendices, after consultation with the Human Resources Management Committee.

# Appendix A

# Resolution Process Flow Chart



## Appendix B

# Guide to What Constitutes Harassment

Some questions that can help assess whether the behavior or conduct (e.g., act, comment or display) constitutes harassment:

- Is the behavior unwelcome or offensive?
- Would a reasonable person view the conduct as unwelcome or offensive?
- Did it demean, belittle or cause personal humiliation or embarrassment?
- Is it an unreasonable use of authority that interferes with an employee's job through intimidation, threats or coercion?
- Is it a single incident?
- Is it a series of incidents over a period of time?

It is also important to consider the severity and impropriety of the act, the circumstances and context of each situation, and whether the behavior or conduct is prohibited under the *Canadian Human Rights Act*. The prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and pardoned conviction.