



# **R**APID **R**ESPONSE **P**ROTOCOL

Released: January 16, 2024  
For SMART affiliates



International Training Institute.  
For the Sheet Metal and Air Conditioning Industry



# INDEX

<b>INTRODUCTION TO THE RAPID RESPONSE PROTOCOL</b> .....	<u>4</u>
<b>LEGAL DISCLAIMER</b> .....	<u>7</u>
<b>SECTION 1: PREVENTION</b> .....	<u>8</u>
<b>A. WRITTEN POLICIES</b> .....	<u>9</u>
<b>B. TRAINING</b> .....	<u>14</u>
<b>C. SMART CONSTITUTION</b> .....	<u>16</u>
<b>D. EXPANSION OF THE "I GOT YOUR BACK" CAMPAIGN</b> .....	<u>18</u>
<b>E. CULTURE CHANGE</b> .....	<u>21</u>
<b>F. ADDRESSING DETRACTORS</b> .....	<u>25</u>
<b>SECTION 2: RAPID RESPONSE PROTOCOL GUIDELINES</b> .....	<u>27</u>
<b>A. RECEIVING COMPLAINTS FROM A MEMBER</b> .....	<u>27</u>
<b>B. ELEMENTS OF A GOOD INVESTIGATION</b> .....	<u>28</u>
1. Remember the Duty of Fair Representation .....	<u>28</u>
2. Select a Rapid Response Team .....	<u>29</u>
3. How to Handle "Member on Member" Complaints – Walking a Fine Line.....	<u>30</u>
4. Contractor Engagement .....	<u>30</u>
5. Perform a Thorough and Complete Investigation .....	<u>31</u>
6. Evaluate the Evidence and Conclude the Investigation .....	<u>37</u>
<b>C. HOW TO PROCEED AFTER THE INVESTIGATION</b> .....	<u>38</u>
1. What Can the Union Do? .....	<u>38</u>
2. How to Proceed Depending on the Results of the Investigation .....	<u>40</u>
3. Steps if the Union is Proceeding with a Grievance .....	<u>42</u>
4. What Asks Should the Union Make of the Employer? .....	<u>43</u>
5. Other Actions the Union Should Consider .....	<u>45</u>
<b>D. WHAT THE UNION SHOULD KNOW ABOUT EMPLOYER RESPONSIBILITIES WITH         RESPECT TO COMPLAINTS</b> .....	<u>45</u>
<b>E. WHEN SHOULD THE UNION COMMUNICATE WITH MEMBERS?</b> .....	<u>47</u>
<b>APPENDIX</b> .....	<u>48</u>
I. Equal Employment Opportunity (EEO) Policy Statement Template .....	<u>48</u>
II. Anti-Discrimination and Anti-Harassment Policy Template (United States) .....	<u>50</u>
II (a). Canadian Workplace Harrassment Policy Template .....	<u>55</u>
III. U.S. Equal Employment and Opportunity Commission (EEOC) Anti-Harassment Policy Checklist .....	<u>59</u>
IV. U.S. Equal Employment and Opportunity Commission (EEOC) Harassment Policy Tips .....	<u>60</u>
V. Code of Conduct Template .....	<u>61</u>
VI. Anti-Bullying Policy Template .....	<u>64</u>
VI (a). Canadian Workplace Violency Policy Template .....	<u>67</u>
VII. Lactation and Breastfeeding Policy Template.....	<u>71</u>

VIII. Paid Family Leave Policy .....	<a href="#">73</a>
IX. Section 1(n) Resolution for Locals and Councils .....	<a href="#">77</a>
X. Juneteenth Flyer .....	<a href="#">78</a>
XI. How To Build How a Women's Committee or Diversity Committee at Your Local Union or Regional Council .....	<a href="#">79</a>
XII. Sample Complaint Intake Form .....	<a href="#">84</a>
XIII. Sample Response Letter to Member – Unsubstantiated Complaint (No Grievance) .....	<a href="#">86</a>
XIV. Sample Response Letter to Member – Unsubstantiated Complaint (Next Steps) .....	<a href="#">87</a>
XV. Sample Response Letter to Member – Substantiated Complaint .....	<a href="#">89</a>
XVI. Sample Letter to Membership Addressing an Incident .....	<a href="#">91</a>
XVII. Sample Statement Addressing Severe Incident .....	<a href="#">93</a>



# INTRODUCTION TO THE RAPID RESPONSE PROTOCOL

You have likely seen headlines in the news describing incidents of bias – and sometimes even hate crimes, such as nooses found on jobsites – that occur in the construction industry. There are also the more common incidents of discrimination and harassment that occur on a regular basis in the construction industry, such as offensive slurs and name calling, graphic stories and jokes, unwanted sexual advances, threats of violence, and unequal treatment in work assignments and layoffs.

If this were to happen to a member of your local union or regional council, you might ask yourself, “What should I do?” Those SMART local leaders who have dealt with incidents of bias in their local union or regional council have expressed that a set of guidelines and protocols would have helped them to navigate these situations more effectively.

This Rapid Response Protocol (“Protocol”) was developed in response to these very concerns. Coming out of the Belonging and Excellence for All (BE4ALL) initiative and the work of the SMART and SMACNA BE4ALL Committees, the Protocol is intended for use by your local unions and regional councils to help you prepare for and respond to situations of bias and the harm that results.

BE4ALL is a joint commitment by SMART, SMACNA, and the International Training Institute (ITI) to foster belonging and excellence in the unionized sheet metal industry. Therefore, the Protocol contains best practices and recommendations for the entire industry, and a version of this Protocol has also been developed for use by contractors, SMACNA Chapters, and JATCs. We acknowledge and underscore that this is a responsibility shared by everyone in our industry.

The Protocol is divided into two sections:

- The first section, **Prevention**, describes measures you can take to prevent any incidents of bias from occurring in the first place and to best position your local or regional council if an incident does occur.
- The second section, **Rapid Response Protocol Guidelines**, will recommend steps and actions for you to consider and take if an incident of bias occurs in your local or regional council.

The Protocol also includes template policies and procedures for you to consider adopting to foster an inclusive environment within the industry. Local areas are urged to work with their legal counsel to ensure compliance with state, provincial, or local laws.



## Why Is This Important?

**(1) We should be welcoming ALL members** – At the end of the day, every member wants to feel welcome in the workplace. No one likes to feel excluded or that they are not part of the team. And at the end of the day, people will not want to join the sheet metal trade if their work environment would subject them to discrimination, harassment, and bullying. Reviewing the Protocol and taking the steps listed here will help make our environment better for every member, regardless of their background.

Our Union should make every member feel valued and respected not only for their skills, knowledge, and excellence on the job, but also as human beings.

**(2) This is a safety issue** – As union leaders, representing members is our ultimate purpose, and ensuring safe and inclusive work environments for every member should be one of our greatest objectives. Eliminating discrimination, harassment, hazing, and bullying is important for workplace safety because these incidents and behaviors erode workplace cohesion. These incidents are bad for employee morale and productivity, and they can cause significant emotional distress.

Workplace bullying and harassment, for instance, is meant to harm and to cause people to feel powerless to respond. By disempowering a member and reducing their sense of safety and security on the job, such behaviors contradict the basic principles of organized labor. Your members count on you to stand up for them, since they look to their union leaders for protection against any violation of their rights and dignity at work.

**(3) We need to recruit and retain members** – Right now, and for the foreseeable future, we face workforce demands like never before. It is thus essential that we recruit and retain every member with the skills necessary to perform our work. Ensuring that work environments are free of bias will not only better position us to retain our current talent but will also allow us to recruit new talent to the workforce. In addition, every time an apprentice or a journey-level member leaves our trade, the industry loses their skills, along with the thousands of dollars that were invested in their training. Taking the steps listed in the Protocol will ensure that the opportunities our Union offers – skilled, middle-class jobs with great wages and benefits – are available to every person across North America, regardless of their background.

When these incidents occur, it is important for our local unions and regional councils to respond quickly and appropriately. Depending on the severity of the incident, it may hit the news, which can lead to embarrassment and harm to the Union's reputation. That would hinder our organizing and recruitment efforts with any potential members who come across the news article. Furthermore, anti-union organizations, such as the Associated Builders and Contractors, have claimed to embrace diversity and are trying to argue that they have a competitive advantage when it comes to supporting and broadening it.<sup>1</sup> This is our opportunity, as the union sheet metal industry, to prove we support and embrace diversity across North America.

---

1) The Associated Builders and Contractors have created a diversity campaign and state on their website, "ABC values inclusion, diversity and equity as an empowering competitive advantage." <https://diversity.abc.org/>

**(4) Legal liability** – Proper response to these incidents is also important for ensuring compliance with all applicable laws, including the duty of fair representation (DFR), and for guarding against legal liability. A union may be liable for discrimination against its members and applicants for membership. If a member complains to their union about unlawful harassment/discrimination and the union fails to do anything, the local union/ regional council may be held liable for harassment/discrimination or for a violation of the duty of fair representation. This can be very expensive.

**(5) Our governments and communities expect change** – The U.S. Equal Employment and Opportunity Commission (EEOC) has taken a particular interest in the construction industry recently.<sup>2</sup> And in Canada, the federal government has ratified ILO-C190,<sup>3</sup> a global treaty aimed at eliminating workplace harassment and violence. Government focus and action increases the importance of our Union being seen as a leader of these initiatives by our communities, the building trades, and society as a whole.

**(6) Union solidarity** – Discrimination and harassment result in toxic and unhealthy environments and create division among our membership. This undermines our union solidarity and our ability to come together on the issues most important to our members.

**This is our moment to make clear across this Union that it is unacceptable for any of our members to face harassment, discrimination, hazing, or bullying. Every member is part of our SMART family, and we must look out for each other. We are only strong if we stand together as one.**



2) <https://www.eeoc.gov/building-future-advancing-equal-employment-opportunity-construction-industry>

3) <https://www.canada.ca/en/employment-social-development/news/2023/01/minister-oregan-ratifies-c190-the-first-ever-global-treaty-on-ending-violence-and-harassment-in-the-world-of-work.html>

## LEGAL DISCLAIMER

The purpose of providing this Protocol to our local unions and regional councils, contractors, chapters, and training funds is to provide general guidelines and template policies to assist in responding to incidents of discrimination, harassment, hazing, or bullying. Laws differ based on your country, state, province, and/or city/municipality, which may require modifications to your specific policy or situation. In addition, these laws are constantly changing. **This Protocol is not intended to serve as a substitute for advice you may obtain from legal counsel. We strongly encourage you to consult with a local attorney who is familiar with the laws applicable to your organization and who can review your policies for compliance with those laws.** You should not adopt and/or finalize policies without final legal review.

By preparing and distributing this Protocol, SMART does not assume the legal responsibility of any local union or regional council. SMART, SMACNA, and the ITI hereby disclaim all responsibility and liability for any loss or damages that may arise from the adoption and/or modification of the practices and policies outlined in this Protocol. Under no circumstances shall SMACNA, SMART, or the ITI be liable for incidental or consequential damages.



# SECTION 1: PREVENTION

## Prevention is Key!

We hope that the local unions and regional councils reviewing this Protocol will never need to utilize its second section. No organization, however, is immune from incidents of bias or harassment, and prevention is the best tool to eliminate harassment and other unwelcome conduct before it causes further harm.

**Below are the recommended steps local unions and regional councils should consider implementing to best position them and to create the culture change to reduce the likelihood of a severe incident:**

- (1) Adopt written policies, including a complaint process**
- (2) Implement training**
- (3) Ensure compliance with the SMART Constitution**
- (4) Expand the “I Got Your Back” Campaign**
- (5) Create culture change**
- (6) Address detractors**

It is important to take appropriate steps to prevent and correct unlawful harassment, discrimination, hazing, and/or bullying. You should clearly communicate to officers, union staff, members, and apprentices that such unwelcome conduct will not be tolerated. You can do this by:

- Adopting clear policies that prohibit unwanted behaviors and encourage a strong workplace culture;
- Establishing an effective complaint or grievance process;
- Providing anti-bias training; and
- Taking timely and appropriate action when someone makes a complaint.

You should strive to create an environment in which members feel free to raise concerns and are confident that those concerns will be addressed. Furthermore, addressing lower magnitude issues will prevent higher magnitude issues through earlier intervention.

In addition, **the Union is also an employer and is subject to liability**, just like any other employer, for employment-based discrimination faced by its employees. As an employer, the Union is responsible for providing a work environment free of harassment and discrimination. In the United States, most of the federal anti-discrimination laws apply to employers with 15



or more employees.<sup>4</sup> However, many states have their own anti-discrimination law with a lower employee threshold. Locals and councils in the United States and Canada should be mindful of the particular laws that apply in their state or province. The Union is also responsible for the conduct of its service providers, allied professionals, and any other groups or individuals that work with the Union and interact with our staff or members. Liability can arise where the Union permits misconduct, or where the Union knew or ought to have known that misconduct was occurring and did not take the necessary steps to address or resolve the situation. We need to ensure that all groups and individuals that work with us are meeting the requirement to maintain a safe workplace free from harassment and discrimination, and to take timely and decisive steps in the unfortunate circumstance where we become aware of misconduct. Where misconduct arises, you are encouraged to engage with your legal counsel without delay.

## **A. WRITTEN POLICIES**

### ***Why Written Policies?***

Your local/regional council is an employer, and it is important for all employers to have written policies for their employees. Written policies take expediency, snap judgment, and emotion out of the Union's decision-making. Spur-of-the-moment action is unnecessary when specific procedures are available to guide the Union. When done well, everyone knows what's expected of them.

#### ***(1) Worker Protection***

Policies provide protection for employees of the local/regional council and help prevent problems that would have otherwise resulted in employee complaints. Employees will also better understand their rights.

#### ***(2) Set Expectations and Obligations***

Written policies communicate clearly that the employer will not tolerate certain behaviors, such as discrimination or harassment. Neither supervisors nor employees can excuse inappropriate conduct due to ignorance, and supervisors become more effective because work conduct is clearly defined, resulting in fairness and consistency.

#### ***(3) Clear Communication***

Developing and distributing clear employment policies provides supervisors and employees with a clear understanding of their responsibilities and helps them follow employment rules and expectations. Written policies provide clear instructions for employees on how to properly report issues.

#### ***(4) Compliance with Federal, State, Provincial, and Local Employment Laws***

Regardless of where you operate or the number of employees you employ, as an employer you

---

4) The U.S. federal law prohibiting age discrimination applies to employers with 20 or more employees.

are subject to employment laws. Certain employment policies, such as anti-discrimination and anti-harassment policies, may be required by federal, state, provincial, and/or local law. Policies ensure that the appropriate officials are notified of, and have the opportunity to promptly correct, harassing or other inappropriate conduct.

Having clear policies may limit your liability should an issue arise. Employees can be held accountable at the earliest possible stage, before their conduct becomes repeated or more severe. In the United States, having a written policy against discrimination and harassment with an effective complaint procedure for employees can provide an important legal protection if you are sued.

## **Sample Policies and Recommendations**

The Protocol includes template policies in the Appendix that we recommend you consider and adopt.

- Laws differ based on your state, province, and/or city/municipality, which may require modifications to your specific policy or situation. In addition, these laws are constantly changing.
- **We strongly encourage you to consult with a local attorney who is familiar with the laws applicable to your organization and who can review your policies for compliance with those laws. You should not adopt and/or finalize policies without final legal review.**
- Your policies may take many forms – for example, they may make up an employee handbook, or one policy might cover multiple areas. Your policies may provide for more decisive actions or consequences. The policies we provide in the Protocol are merely templates and guides.
- While it is important to have policies, it is equally important that you **ensure these policies are easy to find** for both your employees and the employer. That way, if they are ever needed, the procedures can be quickly followed. Therefore, your policies should be widely and regularly distributed and posted throughout the workplace.
- You may consider requiring all employees to sign an acknowledgment of receipt of your written policies at the beginning of their employment.
- You should regularly review and update your policies to ensure they are up-to-date and redistribute them when they are updated.

**TIP:** Local unions and regional councils are encouraged to check with their signatory contractors and JATCs to confirm that they have these policies in place for our members and apprentice members. If they do not have these policies, you should raise the issue in a labor/management meeting with a contractor or during a JATC trustee meeting if you serve as a JATC trustee.

## List of Policies to Consider and Adopt:

### (1) Equal Employment Opportunity (EEO) Policy Statement

An Equal Employment Opportunity (EEO) Policy Statement is a reminder that all employees are protected from discrimination under the laws designed to safeguard employees and job applicants from discrimination on the basis of race, ethnicity, ancestry, color, religion, age, creed, national origin or citizenship, sex (including pregnancy or breastfeeding), gender (including gender identity or expression), sexual orientation, marital/parental/family status, political affiliation, military or veteran status, disability, medical condition and genetic characteristics, or other legally-protected class. These protections extend to all employment practices and decisions, including recruitment and hiring, appraisal systems, promotions, training, discipline, and career development programs. Consistent with these obligations, the law also provides reasonable accommodations to employees and applicants with disabilities or sincerely held religious beliefs, observances, and practices.

[A sample policy can be found in the Appendix.](#)

### (2) Anti-Discrimination and Anti-Harassment Policy

There are many reasons to have a written anti-discrimination and anti-harassment policy. Written policies send the message that discrimination and harassment are not tolerated by the Union and that this is a priority for the organization. In many instances, anti-discrimination and anti-harassment policies are required by federal, state, provincial, and/or local law. In the United States, having a written policy against discrimination and harassment can provide an important legal protection if you are sued, as long as you follow it.

Your written policy should, at a minimum, include the following:

- (1) A statement that discrimination and harassment based on any protected characteristic will not be tolerated;
- (2) A definition of the prohibited conduct that violates the policy;
- (3) A description of the rights and responsibilities of employees and supervisors/managers;
- (4) A procedure for employees to raise complaints, including the individuals designated to receive complaints (your policy needs at least two points of contact in case one of the individuals is the subject of the complaint);

**TIP:** Determining the proper point of contact is important – it could be a Business Manager/Regional Council President, Business Representative, an office staff person, or another trusted person on your staff. For advice on who to select, please review the tips under “So, How Should You Select Team Members?” in Section 2 of the Protocol, which is on [page 29](#). It is recommended that they be trained to properly handle complaints under the policy by your local attorney.

- (5) A statement that all complaints will be investigated promptly, thoroughly, and impartially and that the investigation will be kept confidential to the greatest extent possible;
- (6) A statement that employees found to have violated this policy by engaging in prohibited conduct will be subject to appropriate remedial action and discipline (including termination) if necessary; and
- (7) An assurance that those who file a complaint or participate in an investigation will be protected from retaliation.

It is important to communicate the policy and its procedures frequently with your employees, so they are aware of the proper procedures if an incident occurs. We also recommend reviewing the policy regularly to ensure it is current and effective.

Sample policies for [the United States](#) and for [Canada](#) can be found in the Appendix. The U.S. Equal Employment and Opportunity Commission (EEOC) has developed a checklist for an anti-harassment [policy](#) and has also published harassment policy [tips](#). [These documents are also in the Appendix](#), and we highly encourage that you review them as you draft your policy.

### **(3) Code of Conduct**

SMART local unions and regional councils should consider adopting a Code of Conduct similar to the International's. The SMART Code of Conduct applies to all participants in any of the International's activities, events, or meetings. The Code defines what is discriminatory or harassing behavior, sets an expectation for participants, and lists examples of unacceptable behavior and the consequences for engaging in it. Attendees at all SMART activities, events, and meetings are notified of the Code and of the designated SMART staff person to whom complaints may be directed. The Code establishes a standard of respectfulness and reminds everyone of what is expected from them if they attend SMART events. [A template version of the SMART Code of Conduct is in the Appendix.](#)

As a reminder, at the 2019 SMART General Convention the delegates unanimously passed a resolution asking all SMART affiliates to establish or propose amendments to their own bylaws, codes of conduct, policies, and/or other rules and regulations prohibiting discrimination, and to commit to making every reasonable effort to ensure that no member is subject to harassment, hazing, bullying, or discrimination. SMART affiliates were also encouraged to include explanations of how complaints of discrimination, harassment, bullying, or hazing may be brought to the leadership, as well as recommended procedures for investigating and resolving said complaints. This would be a good time to follow through on this commitment.

### **(4) Anti-Bullying and Hazing Policy**

In Canada, anti-bullying legislation in many jurisdictions does not require the misconduct to involve a characteristic protected under human rights laws and thus provides protection from bullying behavior that a person knew or ought to have known would humiliate or intimidate

another person. In the United States, however, there is no federal law against bullying that doesn't involve a protected characteristic (e.g., race, sex, religion, etc.).

Despite the absence of any U.S. federal law, U.S. local unions and regional councils can create policies and practices to prevent and prohibit general bullying behavior. Ways of doing this include:

- Adopting clear, written anti-bullying policies;
- Fostering an organizational culture that prioritizes inclusion and does not tolerate bullying; and
- Implementing clear and straightforward procedures so that employees know how and where to report incidents.

[A sample anti-bullying and hazing policy can be found in the Appendix.](#)

[In addition, a sample Canadian workplace violence policy can be found in the Appendix.](#)

## **(5) Inclusive Workplace Policies**

There are other policies that the Union can adopt as an employer to make its work environment more inclusive. Here are a few examples:

- **[Lactation Policy](#)**

In the United States, the newly enacted Providing Urgent Maternal Protections (PUMP) Act requires employers to provide nursing mothers with break time and a private space for expressing breast milk. In Canada, human rights legislation across provinces<sup>5</sup> imposes a duty on employers to accommodate employees experiencing issues involving family status, pregnancy or sex discrimination, up to the point that the accommodation causes an undue hardship on the employer. This duty includes accommodating a nursing mother's need for breaktimes and private space for expressing breast milk.<sup>6</sup>

Enacting a written lactation policy can help a mother return to work after maternity leave. It also communicates the importance of lactation breaks and private lactation space to all staff, not just the nursing mother. [A sample lactation policy can be found in the Appendix.](#)

- **[Paid Family Leave Policy](#)**

In the United States, paid family leave is not available in many states. These policies provide paid time off from work with partial or full wage replacement to allow parents to care for their newborn child or care for ill family members. Providing new parents with paid time off to care for their newborn children improves maternal health, enhances working families' economic security, and strengthens the bonds within families. Paid leave to care for family members

---

5) Here is a list of Canadian human rights commissions across jurisdictions: <https://www.chrc-ccdp.gc.ca/en/complaints/other-human-rights-agencies>

6) See commentary from the Ontario Human Rights Commission: <https://www.ohrc.on.ca/en/policy-preventing-discrimination-because-pregnancy-and-breastfeeding/6-duty-accommodate>

relieves stress and reduces financial instability during a difficult time. These policies improve retention and morale.

[A sample paid family leave policy can be found in the Appendix.](#)

## **B. TRAINING**

Training your Union staff (which includes union representatives, organizers, and office staff) is another important prevention measure. This section will mainly focus on anti-discrimination and anti-harassment training but will also list other types of training that are valuable in developing a culture of inclusion and belonging.

### **» *A Rationale for Training***

Traditionally, many employers have offered anti-discrimination and anti-harassment training for the following reasons:

- They are fulfilling training requirements per federal, provincial, state, or local law;
- They want a stronger legal defense in case of potential lawsuits; or
- They fear the negative impacts of workplace harassment on the employer – both from a cost and reputation standpoint.

While these are still good reasons for conducting this training, equally important reasons for anti-discrimination and anti-harassment training revolve around:

- Protecting employees from harassment;
- Ensuring employees are aware of your anti-discrimination and anti-harassment policy and understand it;
- Preventing problems from arising in the first place;
- Creating a safe and supportive work environment for all; and
- Building a workplace culture of mutual respect.

**TIP:** A number of provinces and states have laws mandating that employers provide training on discrimination/harassment prevention on a regular basis. But rather than taking a “check the box” approach to prove compliance, we recommend that this training go beyond “doing the minimum required.” Instead, we recommend you use the required training time to shape employee behavior and prevent undesirable behaviors from happening. That is how employers can truly work to reduce workplace harassment and mitigate risk.

## » **Effective Harassment Prevention Training: A Process**

It is important to avoid creating the impression that the Union is simply “going through the motions” in order to protect itself. Best practices for effective training include:

- Using trainers who are dynamic and engaging.
- Making clear what discrimination and harassment are and reinforcing your stance against harassment and discrimination.
- Ensuring employees understand their rights and responsibilities at work, including how to file a complaint.
- Distributing your policies and explaining where employees can find copies of policies if they misplace them.
- Holding training on a regular repeating basis (every year or two subject to any applicable laws).
- Making training mandatory for all employees.
- Documenting that employees have attended the training and received the policy through a sign-in sheet and retaining these records.
- Allowing for questions by attendees.
- Encouraging reporting.
- Not focusing on legal technicalities. This approach tends to lose employees and has proven not to be effective.
- Focusing on engaging employees to participate in creating a respectful work culture and becoming part of the solution instead of focusing on what not to do.
- Promoting positive behavior.
- Providing supplementary training for supervisors to ensure they understand their responsibilities as supervisors. An employer is always liable for the discriminatory acts of its supervisors and may also be liable for the acts of its non-supervisory employees if the employer or its supervisors knew (or should have known) of the harassment but failed to take prompt corrective action.

Furthermore, effective harassment and discrimination prevention training should be part of an ongoing, prevention-focused communication process rather than a single event. And, like your training, the message that you deliver around preventing unwelcome conduct should be rooted in strong policies and should reflect the union’s message – *that it is important to treat others with dignity and that disrespectful conduct will not be tolerated.*

Other kinds of training that you can pair with your anti-discrimination and anti-harassment training are:

- (1) Bystander intervention training, which empowers employees to intervene when they witness bullying or harassing behavior.
- (2) Respectful workplace training, which may reduce the likelihood that discrimination, harassment, and bullying will occur by promoting respect among employees from different backgrounds and at different job levels.
- (3) Implicit bias training, which will be offered by the SMART Education Department starting in 2024.

While pairing these together is the best practice to ensure you get every employee properly trained at once, you can also provide these classes as standalone trainings to your employees as well.

» **Training Resources:**

- (1) Your local attorney may be able to provide a training recommendation.
- (2) U.S. Department of Labor training for apprentices: <https://www.dol.gov/agencies/eta/apprenticeship/eo/harassment/video>
- (3) In the near future, through the EEOC's Small Business Resource Center, the EEOC will provide training modules and materials for new and small businesses that may not have large human resources departments or compliance teams, which may also be helpful for small local unions as well. Currently, you can request training through the EEOC Small Business Resource Center: <https://www.eeoc.gov/employers/small-business/contact-us>. See Also: <https://www.eeoc.gov/training-institute/harassment-prevention-and-respectful-workplaces-training>
- (4) The Labour Program at Employment and Social Development Canada has developed a model syllabus for a workplace harassment and violence prevention training course. It is located here: <https://www.canada.ca/en/employment-social-development/programs/workplace-health-safety/harassment-violence-prevention/sample-training-syllabus.html>. The model syllabus is for guidance only, as it is focused on federal law under the Canada Labour Code. Thus, it is not intended to reflect the specific requirements in your province or jurisdiction, and you are encouraged to work with your legal counsel to assess its application to your region.
- (5) Many states provide good training resources for sexual harassment:
  - a. New York: <https://www.nyc.gov/site/cchr/law/sexual-harassment-training-page>
  - b. California: <https://calcivilrights.ca.gov/shpt/>
  - c. Illinois: <https://dhr.illinois.gov/training/state-of-illinois-sexual-harassment-prevention-training-model.html>

## **C. THE SMART CONSTITUTION**

SMART local unions and regional councils also have responsibilities under the SMART Constitution, which act as further prevention measures and tools.

### **(1) Order of Business**

Article Ten (10), Section 6(b) of the SMART Constitution, "Order of Business," requires that local unions **"[a]nnounce or display. This meeting is an environment free of discrimination and harassment"** at local union meetings. Local unions and regional councils should make this announcement and display this language at meetings to set the expectation for membership that discrimination and harassment will not be tolerated. Consistent with a resolution passed at the 2019 Convention, some local unions and regional councils have posted at their union offices and at union meetings that they embrace equality, diversity, and inclusion and asked that each member conduct themselves in a manner consistent with these values.



## (2) Amending Bylaws to Include Non-Discrimination Language

Article Sixteen (16), Section 1(a) of the SMART Constitution states, "An applicant shall not be refused membership because of race, color, religion, age, creed, national origin, sex, gender, sexual orientation, gender identity or expression, marital/parental/family status, veteran status, disability or other legally-protected class."

SMART local unions and regional councils should also consider enacting non-discrimination language in their bylaws or their policies. Below is sample language:

*[Local ## /XX Regional Council] shall not discriminate against applicants or members on the basis of race, ethnicity, ancestry, color, religion, age, creed, national origin or citizenship, sex including pregnancy or breastfeeding, gender including gender identity or expression, sexual orientation, marital/parental/family status, political affiliation, military or veteran status, disability, medical condition and genetic characteristics or other legally-protected class.*

## (3) Charges and Trials

Another tool for fostering an inclusive environment is the charges and trials procedure set forth in Articles Seventeen (17) and Eighteen (18) of the SMART Constitution. During the 2019 SMART General Convention, the SMART Constitution was amended to add a new Section 1(n) to the list of chargeable offenses under Article Seventeen (17). Under Section 1(n), the following behavior is now a chargeable offense:

*Engaging in any conduct that is harassing, hazing, bullying or discriminating against any person or group of persons, while in the workplace or performing work duties, or at union facilities or functions, or acting as an agent of this Association, because of their race, color, religion, age, creed, national origin, sex, gender including gender identity or expression, sexual orientation, marital/parental/family status, veteran status, disability or other legally-protected class.*

Filing internal union charges against a member is not the answer to all instances of inappropriate behavior, but if the behavior has caused significant harm to the union or to members, or is otherwise unable to be satisfactorily resolved, then charges can be an important tool for holding members accountable and sending the message that the conduct will not be tolerated.

### » ***Elements of Section 1(n)***

If charges under Section 1(n) are brought, the charging party needs to introduce evidence which proves the following elements of the offense:

- (1) The accused party engaged in conduct that was harassing, hazing, bullying, **or** discriminatory.
- (2) The conduct was directed against a **person** or group of persons – note that the conduct does not have to be directed against another member.

- (3) The conduct occurred in the workplace or while performing work duties, at union facilities or functions, or while acting as agent of the union.
- (4) The conduct was motivated by the person's race, color, religion, age, creed national origin, sex, gender including gender identity or expression, sexual orientation, marital/parental/family status, veteran status, disability or other legally-protected class.

The fourth element deserves special emphasis. Often times, the connection to another person's protected class is readily apparent because the accused party used slurs or stereotypes. Other times, the connection is implicit and less obvious. Charges under Section 1(n) are not appropriate where there is no connection. For conduct that is harassing, hazing, or bullying but without a connection to a person's protected class, charges under Section 1(m) may be considered instead.

### » **Appropriate Discipline**

Article Seventeen (17), Section 1(a) of the SMART Constitution states that discipline for violations of Section 1(n) may take the form of "reprimand, fine, suspension or removal from office, suspension or expulsion from membership, *or other appropriate disciplinary measures.*" The SMART Constitution thus empowers local union trial committees to craft discipline appropriate to the circumstances. Some local union trial committees have used this authority to order violators of Section 1(n) to write apology letters and to attend a diversity, equity, and inclusion (DEI) training. Fines are permissible too, provided they are within reason, even though it may be difficult to quantify the exact damage the member caused. If the trial committee issues a fine, it should explain why it decided upon that form of discipline. For example, if a member is fined for violating Section 1(n) by harassing another member because of their race, an explanation might state:

*The trial committee issued a fine in the amount of \$3,000 because of the severity of the conduct the charged party engaged in. The racially discriminatory acts the charged party committed are destructive to solidarity among the members of Local ##. They caused serious harm to the victims of the discrimination and tarnished Local ##'s reputation among workers, employers, and the public. Acts of this nature cannot be tolerated.*

### » **Passing a Section 1(n) Resolution**

Local unions are further encouraged to pass resolutions that describe violations of Section 1(n) as a serious act of misconduct for which members may be issued discipline, including fines. Passing a resolution is not necessary to discipline members under Section 1(n), but if the local union has to enforce a fine in state court, the resolution will further demonstrate that membership set this expectation for themselves. [A sample resolution is contained in the Appendix.](#) If the local union adopts a resolution, the union should distribute it to current members and include it in the materials sent to new members.

## **D. EXPANSION OF THE "I GOT YOUR BACK" CAMPAIGN**

The "I Got Your Back" campaign launched in the summer of 2021. The campaign seeks to reinforce union solidarity and let our brothers, sisters, and union family know that, as union members, we have each other's backs.

This campaign is based on acknowledging that bullying, hazing, harassment, and discrimination happen. Our industry can be a tough environment, especially for new members, and this campaign seeks to lift up those members who work each day to represent our Union's values and challenges all members to be an ally who fellow members can turn to in times of need.

The launch of the Rapid Response Protocol now leads to the expansion of the "I Got Your Back" campaign, which we ask all local unions and regional councils to support in order to demonstrate your commitment to ensuring that all members feel safe and secure in their work environments. The "I Got Your Back" campaign is designed to encourage our membership to intervene when bullying or harassment occurs on the jobsite with the same sense of urgency as if a fellow member were facing unsafe work conditions

### » *Expansion of the "I Got Your Back" Mission*

At the job site, senior members of the crew often tell us that if you see an unsafe act, speak up. We all want to return home in the same condition we arrived. But when we fail to look out for one another while performing our work, incidents happen, and these can have lasting and devastating effects.

The same goes for workplace behavior. SMART wants our members to speak up for themselves and others when they are uncomfortable or witness others who are in the compromising position of being bullied or harassed. As with safety, it is important to create a culture that encourages members to say something when witnessing harassment or bullying. We all want to return home from work unharmed – physically, mentally, and socially.

In fact, discrimination and harassment on construction sites can endanger the physical safety of members on the job. Due to the dangerous nature of the job, you need to be able to trust that the member next to you will keep you safe. If your co-worker is harassing you, it is hard to trust that they will ensure your safety.

As members of SMART, we have the moral duty to ensure the safety and well-being of our members and to encourage each other and build morale while on the job. The concept of a workplace free of harassment and discrimination should be owned by each member at every worksite. Intervention is an effective tool to curb and hopefully eliminate harassment and bullying in the workplace.

### Local Union/Regional Council Responsibilities under the expanded "I Got Your Back" Campaign

- Each local union/regional council will designate at least one **"I Got Your Back" Representative** to serve as a point of contact for members to reach out to in order to report incidents of bias, discrimination, harassment, hazing, or bullying on the job. For bigger locals/regional councils, it may make sense to appoint more than one point of contact (for example, by district). Please notify your International Representative of your selection, and the International will provide training to them on the Rapid Response Protocol procedures.

**TIP:** For advice on how to select the best person to serve as the “I Got Your Back Representative”, please review the tips under “So, How Should You Select Team Members?” in Section 2 of the Protocol, which is on [page 29](#).

- Once your chosen Representative(s) receive training from the International, you will notify membership of the point(s) of contact by email and newsletter and at your union meetings.
  - You should also notify your stewards.
  - When situations arise, the “I Got Your Back” Representative can convene a Rapid Response Team<sup>7</sup> to address the matter, which may include the Business Manager, your local attorney, and your International Representative. But the local should include no more individuals than necessary to respond to the situation.
- Each local union/regional council will announce the expansion of the “I Got Your Back” campaign at its membership meeting. Upon request to your International Representative, the International will provide updated “I Got Your Back” t-shirts for you to give away to members at this meeting.
- The local/regional council “I Got Your Back” Representative will remind members to speak up when experiencing or witnessing harassment, bullying, or other harmful behaviors. The Representative will remind members that everyone bears a collective responsibility to ensure that the jobsite is free of discrimination and harassment.
- The local/regional council “I Got Your Back” Representative will also remind members at each union meeting that they can contact them with any issues or concerns on the jobsite or at union meetings.
- The “I Got Your Back” Representative will establish a communication channel for complaints to get to applicable contractor or SMACNA Chapter, since the contractor has ultimate responsibility to address discrimination and harassment at work.
- Each local/regional council will encourage signatory contractor participation in the “I Got Your Back” campaign. Employers will encourage employees to speak up as part of the campaign.
- Each local/regional council will ensure each member, including apprentices, has been informed of this expansion.

### SMART International Responsibilities under the “I Got Your Back” Campaign

- SMART will publish excerpts from the Rapid Response Protocol in upcoming SMART Journals.

<sup>7</sup>) See [page 29](#) of Section 2 of the Protocol on the formation of a Rapid Response Team to address complaints of bias and how the “I Got Your Back” Representative supports this process.

- SMART will utilize the SMART Connection to broadcast highlights of the Rapid Response Protocol.
- SMART will share the Rapid Response Protocol with women's committees, diversity committees, and BE4ALL committees.
- SMART will provide a toolbox talk to introduce the expansion of the "I Got Your Back" campaign to our membership. The toolbox talk will encourage everyone to speak up if they see someone being bullied or harassed.
- SMART will provide updated "I Got Your Back" shirts to each local or regional council making a request. SMART will dispatch an International Representative to locals or regional councils who do not make a request.
- SMART will develop a mechanism for members to report incidents of bias through the member portal on the SMART website, and these messages will be sent to the Business Manager/Regional Council President or "I Got Your Back" Representative directly with a copy to the local/council International Representative. This website will be available in spring of 2024.

## **E. CULTURE CHANGE**

In addition to implementing all of the recommendations previously described in this Section, local unions and regional councils can make other changes to shift the culture of SMART to one that encourages belonging and excellence for all members.

### **(1) Union Leadership Should Set the Example**

All SMART leaders – from the International down to the local level – should step up and proactively lead on these issues. That means modeling appropriate and inclusive behavior – for example, by not engaging in any behavior that may be perceived as discriminatory or harassing in nature (such as telling off-color jokes, name calling, and so forth). If you do engage in such behaviors, our members will view them as acceptable.

In addition, SMART leaders should foster a union environment in which members can feel free to express their opinions and speak out against offensive behavior. Often times, there is peer pressure to remain silent for fear of being ostracized. Leaders can also promote an environment where everyone is willing to listen and to try to understand each other.

### **(2) Participate in BE4ALL Programming**

In addition to this Protocol, the Belonging and Excellence for All (BE4ALL) campaign has developed other great resources. BE4ALL resources can be found at this link: <https://www.smart-union.org/our-priorities/diversity-equity-and-inclusion/be4all/>

- **Learning Journey Sessions:** BE4ALL regularly hosts learning journey sessions on a variety of topics, including mental health awareness, workers' rights, Black History Month, and more, with the goal of providing the industry with information and new perspectives

on these topics. Some of these sessions are recorded and can be found on the SMART website. **We ask that you and the local/regional council leadership attend these sessions and that you encourage members to attend these sessions as well.**

- **BE4ALL Calendar:** The BE4ALL annual calendar was mailed to every local union/regional council and is a tool to learn more about the different cultures and faiths that make up our ever-evolving industry. Each month highlights several important holidays/observances your peers may already take part in, and even a few that might be less familiar. In addition to noting the exact date of the observance, an explanation of that particular day's significance and history can be found directly below the calendar. The calendar is also available on the SMART website.
- **BE4ALL Toolbox Talks:** The BE4ALL Committee distributes Toolbox Talks every other month. The expectation is that these Toolbox Talks will reduce bullying, harassment, hazing, and discrimination on jobsites; ensure increased worker productivity; and promote solidarity among our members. The wide distribution of these Toolbox Talks will help ensure that the entire unionized sheet metal industry has one consistent message – from our training centers, to our job sites, and in our union halls. We ask that you promote these toolbox talks by taking the following steps:
  - Read the Toolbox Talks at your membership meeting and at your Executive Board and union staff meetings.
  - Display the Toolbox Talks on monitors in your union hall and at the JATC.
  - Put the Toolbox Talks in your stewards' kits.
  - Ask your Business Agents to promote the Toolbox Talks by visiting shops and jobsites, distributing the Toolbox Talks, and ensuring the Toolbox Talks are being given.
  - Print the Toolbox Talks in your union newsletter and/or send it to your membership by email or text message.
  - Distribute the Toolbox Talks to your contractor list.
  - Coordinate with your JATC(s) to ensure the Toolbox Talks are being given to apprentices and training staff.
  - Give the Toolbox Talk to your retiree club.
  - Send pictures of the Toolbox Talks being given to the International: [BE4ALL@smart-union.org](mailto:BE4ALL@smart-union.org).
- **Celebrate Juneteenth:** Locals and regional councils in the United States are encouraged to celebrate Juneteenth and ask for this holiday to be observed in your collective bargaining agreements. [A flyer on Juneteenth can be found in the Appendix.](#)

### **(3) Join the SMART Recruitment and Retention Council**

The SMART Recruitment and Retention Council is currently working together to identify and address the obstacles preventing us from recruiting and retaining more members, including

members from underrepresented communities. The Council's purpose is to recruit, retain, and promote diverse groups in our organization; to ensure workplace equality within our industries; and to promote respect, inclusion, and safe, non-hostile work environments at all levels within SMART. It is a great resource for all local unions and regional councils.

For information on how to join, please visit the following website: <https://www.smart-union.org/get-involved/committees/individual-committees/recruitment-and-retention-council/>

#### **(4) Attend the NABTU Tradeswomen Build Nations Conference and Send Your Women Members to the Conference**

The Tradeswomen Build Nations (TWBN) Conference is the largest gathering of tradeswomen in the world. In 2023, SMART had over 300 women members attend the TWBN Conference. SMART also had more male-identifying allies attend in 2023 than any other trade.

More information about the Conference can be found here: <https://nabtu.org/twbn/>

#### **(5) Attend Bias and Belonging Training**

Starting in 2024, SMART will deliver Bias and Belonging Training to the leadership of our locals and regional councils through the Education Department. This is the same training being offered in our JATCs through the International Training Institute (ITI), and SMACNA is also working to deliver this training to SMACNA Chapters and contractors.

The Bias and Belonging Training class is focused on the science of implicit bias and breaks down strategies for how to reduce and interrupt bias. We ask that you attend this training and make this training required for your local leadership, including your stewards.

**Here is a review from a SMART member who took the ITI Bias and Belonging Training:** *"I would absolutely tell people that the training isn't what they are expecting it to be. It's definitely not an attack. It's not meant to shame someone for feelings they might have. It's not meant to blame people for things that may have happened in the past. It's to provide an opportunity to learn to slow down, be aware of your personal blind spots and to make decisions without using your reflexes."*

We will also be offering a Train-the-Trainer class so locals and regional councils can deliver this training to members in your area. It is important that this training be championed by a variety of sources – from the Business Manager or Regional Council President to the business representatives, organizers, and other union officers. Once your local/regional council has been trained to deliver Bias and Belonging training, there are different ways to encourage and incentivize your members to attend this training. Here are some ideas:

- Attach Bias and Belonging Training to COMET training.
- Allow members to be excused from another activity, such as picket duty, if they attend this training.

- Pay the member's window dues for one month if they attend the training.
- Provide food, such as pizza, and non-alcoholic refreshments.

## **(6) Ensuring Access to Menstrual Products**

The BE4ALL campaign delivered a "Bathroom Kit" of menstrual products (tampons, pads, and disposal bags) to all JATCs throughout North America to ensure that apprentices in need of these products have access to them at the training centers while they are learning.

We have two asks:

- Ensure these products are available at your union hall.
- Approach signatory contractors and demand that they place tampons and pads in all first aid kits on every jobsite to ensure our members have access to these products while working.

In addition, specs to build your own sheet metal menstrual product dispenser are located here: <https://www.dropbox.com/sh/trcivqur54uf83x/AAkv3oXFX5yY6-vN1FPL-yQa?dl=0>

## **(7) Establish a Women's Committee or BE4ALL/Diversity Committee in your Local/Regional Council and Work with the Committee**

Listening to the members who are directly impacted by discrimination and bias is crucial to effectively combatting it. SMART local unions and regional councils have been building Women's Committees and Diversity Committees<sup>8</sup> for this purpose since the International made it a priority. Forming a Women's Committee or Diversity Committee gives women and minority members in the trades a place to gain leadership skills, to work on issues, and to connect with other SMART women and minority members. Another committee you may consider forming is a local/regional council BE4ALL Committee to help carry out the work on a local level, and if you have an existing Diversity Committee, you may consider rebranding it as a BE4ALL Committee.

It is also important for a local union or regional council to actively support and provide resources for these committees, such as meeting spaces and funding. Setting aside time to have discussions with the Committee and hear about their work and asking them to provide reports at membership meetings will help you develop strong working relationships with the Committee.

Locals should include contact information for the Chair of the Women's Committee and Diversity/BE4ALL Committee in the new member packet, so new members can connect with the Committee immediately. [The Appendix contains materials on how to build a Women's Committee or Diversity/BE4ALL Committee at your local union or regional council.](#)

---

8) The International just recently appointed the RISE (Representation, Integrity, Support, Empowerment) Committee to focus on the recruitment and retention of members who are Black/African American, Latino/Hispanic, Asian, Indigenous, People of Color, LGBTQ+, part of other historically marginalized groups, and allies.



## (8) Consider Inclusive Terminology

Using inclusive terminology can go a long way towards making certain members feel welcome. For example:

- Instead of saying “journeyman”, you can say “journeyperson”.
- Instead of saying “foreman”, you can say “foreperson”.
- Instead of saying “man hours”, you can say “work hours”.
- Instead of saying “manpower”, you can say “workforce” or “workforce needs”.

One thing to note is that certain members, including some women, prefer to be called a journeyman because they believe that is the status they have earned. In these situations, the best practice is to call individuals by the term they prefer – so if a woman would like to be called a journeyman, please do so. But when referring to entire groups, using the gender-neutral term is the best practice.

## F. ADDRESSING DETRACTORS

As with everything the union does, there will be members who do not agree with the commitment to fostering an inclusive environment. They may be misinformed about what the commitment entails, misled by figures in the media who disagree with the commitment, or genuinely concerned about what all of this could mean for them and their career. You will not convince all of your members that this work is worth doing, but by following a few simple messaging practices, you can increase your chances of convincing the skeptics in your ranks:

1. **This is fundamentally about respect.** Most members would agree that all workers deserve to be treated with respect and that no worker should have their opportunities limited because of a preconceived notion about who they are or what they are capable of. But like it or not, we all walk around with a lot of unchecked biases. Adopting these practices and policies will help each of us keep those biases in check and, by extension, more meaningfully respect one another.
2. **This is not about shaming members.** Some members may feel that the commitment to building an inclusive environment is an attack on who they are, what they believe in, or where they come from. There is a lot of media out there that advances this line, but it could not be further from the truth. This work is about ensuring that all members feel welcome and have a place in our union. It is about building solidarity between workers and a stronger union.
3. **Recruiting and retaining a diverse membership is strategic.** Everybody knows the statistic about the massive shortage in skilled construction workers. While that shortage may be good for labor in the short-term, in the long-term the union needs to recruit and retain more skilled construction workers to thrive and grow. Future skilled construction workers will work the hours that fund each of our retirements and the simple fact is that those future, potential members are more likely to be women and/or people of color than ever before. Tolerating discrimination and harassment undermines our solidarity.

4. **Those we do not welcome will end up as our competition.** If those future members do not feel accepted by our union, then they will seek other careers, work non-union, or join other building trades unions, and SMART will only be weaker for it. They will also share their negative experience with SMART with other non-union workers or other building trades unions, which will hinder our organizing efforts.



## SECTION 2: RAPID RESPONSE PROTOCOL GUIDELINES

There has been an incident of discrimination, harassment, or bias involving one of your members. It may even be a member against member offense. What should you do?

This section of the Rapid Response Protocol outlines the recommended steps and actions for local unions and regional councils to take in order to ensure a proper response to incidents of bias. These incidents may seem intimidating to handle, but these guidelines will help you effectively navigate them. That way, the Union will have the confidence to properly address these issues.

### **A. RECEIVING COMPLAINTS FROM A MEMBER**

When a complaint of bias is brought forward by a member, it can often feel overwhelming and intimidating. Union officials want to make sure they handle these situations properly. Below are best practices for the Union to consider when a complaint is raised.

- Take every complaint seriously. Do not minimize it, make judgments, or jump to conclusions.
- Be empathetic and understanding. Remember that members look to the Union for protection against anything that violates their basic human dignity on the job.
- Review any applicable policies and procedures, which may include the contractor or employer's anti-discrimination and anti-harassment policy, the collective bargaining agreement, and/or other policies in effect.
- Follow the process outlined in any applicable policies/procedures.
- Protect the confidentiality of the member bringing forward the complaint as much as possible and share only with those who have a "need to know", subject to advice from your legal counsel.
- Do not retaliate against anyone who brings forward a complaint, even if the complaint is not substantiated after an investigation is completed.

**There is a sample complaint intake form in the Appendix that locals and regional councils may use to formally document complaints as they are reported.**

**TIP:** Complaints can also arise through informal channels, such as casual conversations or general comments indicating that a local/council member or someone on your Union staff feels they have experienced discrimination or harassment. In some situations, you may be informed of an incident by a steward, a witness, or even by someone who merely heard that something may have happened. **You should treat this notification as a complaint** and follow the above best practices.

## Remember – Communication is Essential

Once notified of an incident, you will need to determine if any additional parties should be contacted to coordinate a response:

- Is police involvement warranted? States and provinces may differentiate on what constitutes a crime. For example, does the incident rise to the level of a hate crime? Has unwanted touching or physical violence occurred?
- Depending on the severity of the incident, you may want to notify your legal counsel to ensure proper protocol is being followed.
- You may want to inform the contractor or the JATC/training center if an apprentice is involved.
- You may want to contact your International Representative for additional guidance.

## **B. ELEMENTS OF A GOOD INVESTIGATION**

While contractors have the legal responsibility to investigate incidents that occur on the jobsite, and the Union has the same responsibility in matters involving its own employees, SMART local unions and regional councils also have a responsibility under the duty of fair representation to thoroughly and fairly investigate complaints brought forward by members.

### **1. Remember the Duty of Fair Representation**

The Duty of Fair Representation (DFR) is a doctrine developed in the United States originally by the courts and later adopted by the National Labor Relations Board (NLRB). In Canada, DFR also applies in labour legislation at the federal and provincial levels and is enforced by labour boards and courts across the country. The duty is based on the Union's status as the "exclusive collective bargaining representative" of all the employees in a bargaining unit. The logic is that because the Union is the representative of everyone in the unit, the Union takes on a duty to represent them fairly.

Under this duty, the Union must not act in any way that is "arbitrary, discriminatory or in bad faith" while carrying out its duties as the representative. To avoid meritorious DFR lawsuits or charges filed with the NLRB, the Union should investigate a grievance diligently, decide what to do with the grievance without regard to who the employee is, and use clear principles for analyzing situations which can be applied uniformly across all grievances.

**TIP:** Essentially, the duty boils down to these principles:

1. The Union investigated the case.
2. The Union gathered all the relevant facts.
3. The Union made an informed and intelligent decision on what to do (based on the merits of the case and not on the merits of the employee bringing the claim).

## **2. Select a Rapid Response Team**

As a best practice and before an incident occurs, we recommend that each local/regional council establish and designate a **Rapid Response Team** to investigate and address these issues. It is important to carefully consider who should be part of this Team, which will depend on the nature of the incident and who is involved.

The Union should be mindful to choose who is best suited to serve on the Rapid Response Team. Not everyone is well equipped to handle sensitive issues of this nature.

### ***So, How Should You Select Team Members?***

- Who has shown that they can keep confidentiality?
- Who has shown a pattern of being able to remain fair and objective and resists jumping to conclusions?
- Who can keep a cool head during times of stress?
- Who has strong interpersonal skills to build a rapport with the parties involved and to be perceived as neutral and fair?
- Who has the right temperament to handle these complaints?
- Who leads by example and treats all members with dignity and respect?

The Union should bear in mind that the member bringing forward the complaint will likely expect confidentiality to the greatest extent possible, **so we do not recommend including more Team members than is necessary to address the complaint.** So, who should serve on the Rapid Response Team?

- Under **Section 1(D)** of the Rapid Response Protocol,<sup>9</sup> your local union/regional council was asked to designate at least one "I Got Your Back" representative to serve as a point of contact for members to reach out to in order to report incidents of bias, discrimination, harassment, hazing, or bullying on the job.
- Other union officials as appropriate (Business Manager, Steward, etc.) – you should also review (C) "How to Handle Member on Member Complaints."
- Union counsel.
- The JATC Coordinator if an apprentice was involved.

In order to ensure that complaints are handled properly and members are effectively represented, we **strongly recommend** requiring team members to undergo training on how to respond to discrimination and harassment complaints as a pre-requisite to serving on the Team. This may include Rapid Response training offered by the International, having your local attorney perform training, and/or completing any other training offered through other channels.<sup>10</sup>

9) Please refer Section 1(D) on the expansion of the "I Got Your Back" Campaign for more information, which is on [page 18](#).

10) A list of potential training resources is available on [page 16](#) of Section 1 of the Protocol.

### 3. How to Handle "Member on Member" Complaints – Walking a Fine Line

Conflict between members comes with the territory for union representatives. When a member discriminates or harasses a fellow member and the employer is investigating this claim, the Union has an obligation to represent both members under the duty of fair representation. Even if a member has potentially committed a heinous act, the member is still entitled to fair representation by the Union under the law.

- The Union needs to monitor the process to ensure fairness and objectivity in representation, since the members have conflicting interests. To ensure this happens, **the Union should assign to each member different union representatives** to represent them during the employer's investigation.
- Note that in Canada, there is an expectation that the union will investigate the situation before making a decision regarding member support in a grievance.
- In the United States, union-represented employees have the right to a union representative in investigatory meetings where the employee reasonably believes the meeting may lead to disciplinary action.<sup>11</sup> If there is advance notice, the union representative should ask the employer for details on the subject matter of the meeting in advance of the interview. The union representative should also offer to consult with the member prior to the meeting.

However, the Union does not have to remain neutral through the whole process.

- The Union may decide against representing a member based on an evaluation of the merits of the situation (which should be based on facts and evidence, not personalities) without violating the duty of fair representation.
- If the Union is in a situation where members with conflicting interests both want to pursue grievances in a situation, the Union may decide to advance one member's claim at the expense of the interests of the other member without violating the duty of fair representation. Before making this decision, the Union should investigate the situation and make an informed decision. As part of this investigation, the Union should interview each member before making this decision.

Therefore, depending on the situation, when convening your Rapid Response Team, **you may need to add an additional representative** to represent the interests of the alleged offending member during the course of an investigation.

### 4. Contractor Engagement

During the investigation process, the Union's Rapid Response Team may consider engaging the contractor to ensure complaints are properly addressed. The contractor representative may include the Chapter Executive or Management Co-Chair on the JATC.

---

<sup>11</sup>) These are commonly referred to as Weingarten rights.

In [Section 1\(D\)](#) of the Protocol, we asked your “I Got Your Back” representative to establish a communication channel for complaints to get to the applicable contractor or SMACNA Chapter, since the contractor has ultimate responsibility to address discrimination and harassment at work.<sup>12</sup>

An investigation of this nature may, at times, put the union and contractor at counterpoints. However, it does not mean that the employer and union cannot have the same end goal – for the work environment to be free from harassment, discrimination, and other prohibited behaviors. Both the Union and the contractor should be clear in reminding all involved that the goal is to determine, to the best of your ability, what occurred, and to take necessary corrective action to prevent it from happening again if there was a confirmed violation. That way, it is clear to everyone that neither the Union nor the employer will tolerate inappropriate behavior on the job.

### ***5. Perform a Thorough and Complete Investigation***

The Union's investigation of complaints will vary based on their severity, complexity, and context. Some investigations may be short, while others may be more extensive. When conducting an investigation, your goal should be to find out the whole story.

#### ***a. Best practices and guidelines for Union investigations:***

- Do not procrastinate.
- Handle the issue with sensitivity.
- Remain open-minded and impartial. Do not make assumptions, pre-judge the situation, or jump to conclusions.
- Put aside any history you may have with the complainant or any others involved.
- Maintain confidentiality as much as possible. Only share information related to the investigation on a “need to know” basis, subject to advice from legal counsel. Many complainants would prefer that as few people know about their situation as possible, so that they do not become a subject of gossip and rumors.
  - *If information is leaked by a Union officer to someone with no involvement in the investigation, you will lose the confidence of your members and discourage members from reporting incidents in the future.*
- Take good written notes of any interviews and communications with anyone involved in the complaint (such as the complainant, the contractor, or witnesses). Stick to facts – write down what you were told.
- Frequently communicate with the complainant to keep them informed on the

---

<sup>12</sup>) This can be found on [page 18](#).

status of their complaint/grievance and keep a log of these communications (whether in-person, by phone, or by email).

- If you have questions at any stage of the investigation, contact your local attorney or your International Representative.

*b. Steps of a Proper Investigation:*

Note that each investigation is going to look different from the next because the underlying circumstances are different. However, the following list provides general guidelines for conducting a fair and thorough investigation, no matter the nature of your particular investigation. Not every step below needs to be followed in every situation; there may be complaints where a full investigation is not necessary or warranted.

1. Promptly convene the Rapid Response Team and discuss what information is known at this time. Determine who on the Rapid Response Team will conduct interviews and review documents. It should not be someone with a personal relationship with the complainant or parties involved.
2. Review any applicable policies, procedures, and/or the collective bargaining agreement. Follow the process outlined in any applicable policies.
  - **Note any time limits for filing a grievance and comply with them.** Once you miss the deadline, it's gone.
  - If you are approaching a deadline but are still investigating the complaint, you should err on the side of filing the grievance or advancing it to the next step to ensure you do not miss this window. You can always withdraw the grievance later. If you ask for an extension, ensure that your CBA does not prohibit extensions and make sure you get confirmation in writing from the employer.
3. Interview the complainant and collect documents, if applicable.
  - Whenever possible, don't subject complainants to multiple interviews as this may re-traumatize them.
  - If possible, consider conducting the interview with someone the complainant will feel most comfortable with. For instance, some female members may feel more comfortable talking with a female union representative about sexual harassment rather than a male representative.
  - Refer to the tips on How to Conduct a Proper Interview on the next page.
4. Identify any other individuals to interview, such as witnesses, and what questions you will ask them. Interview these individuals and collect documents, if applicable.
5. If it is possible to file a grievance on this matter, request information from the employer. Explain that the purpose of the information request is to assist the Union in



pursuing a grievance and demand prompt compliance. If made verbally, always confirm the request in writing.

Additional information will ensure that the Union will be fully informed when it makes its decisions regarding whether to proceed with a grievance.

- Examples of documents to request include employer manuals/policies/guidelines, interview notes and investigative reports, job assignment records, and personnel files.

6. Reinterview those involved based on new information and evidence.

7. Meet with the Rapid Response Team to review the evidence, assess credibility, and determine how to proceed. Remember that decisions should be made based upon the situation and not on the member.

### *c. How to Conduct a Proper Interview*

It is important for the person conducting the interview to understand:

- Their role,
- How to conduct a good interview, and
- What they should and should not say during such an interview.

Interviews should be conducted face-to-face to the greatest extent possible and should take place in a private, comfortable setting.

When conducting interviews, you should not promise absolute confidentiality to anyone under any circumstances. Instead, inform the individuals that you will reveal the information they share with you only to people with a legitimate need to know. For example, when interviewing witnesses and the alleged actor, it is often necessary to reveal the complainant's identity (or the identity of a witness or the alleged actor) to others being interviewed for the Union to get the answers it needs for a proper investigation.

To put individuals at ease, the Union can assure all interview participants that the Union will not tolerate retaliation and ask them to contact the interviewer if they feel retaliation occurs.

**Here is a sample statement for the Union to provide when it comes to questions about confidentiality:** *"I cannot promise complete confidentiality. Certain people will need to be made aware, so this can be addressed. However, I respect your privacy, and I will do my best to share information only on a need-to-know basis. People who will need to know will likely include the contractor, people mentioned in the complaint, and others with relevant information, such as witnesses. Otherwise, I am not able to conduct a meaningful investigation or resolve the issue. This Union does not tolerate retaliation, and if you feel you are experiencing retaliation, please contact me immediately."*

- **Interview with the member making the complaint**

Here are some best practices to follow when interviewing a complainant:

- **Close, active listening is crucial.** A member who is invited to tell their story in full will feel listened to and validated by the Union. This in turn will encourage them to see the Union as an ally in confronting workplace harassment. Also, careful listening will help the Union gather important details at the outset.
- **Confirm their story.** After the member has had an opportunity to tell their story, repeat back to them what you heard. Ask them if you left anything important out or if they have anything additional to add.
- **Do not make promises.** During the interview (and indeed the investigation), the Union should not promise the member any particular outcome.
- **Thank them for coming forward.** The Union should show appreciation that the member has come forward to make the report.
- **Let them know next steps.** The Union should let them know that it will perform an investigation and follow up with the complainant for any additional information if necessary, or once the investigation is complete.

**Sample questions to ask during your interview:**

- Who, what, when, where, and how:
  - Who was involved?
  - What happened?
  - When did this happen? Is it still happening?
  - Where did it happen?
  - How often did it happen? Once? More than once?
  - How did you react? Did you respond?
  - Who else was present when this happened?
  - How did it affect you? Has your job been affected in any way?
  - Did you tell anyone about this? Who?
- Do you know of anyone else who has similar concerns?
- Are there other people who have relevant information?
- Are there any notes, physical evidence, or other documentation regarding the incident(s)?
- How would you like to see the situation resolved?
- Do you have any other relevant information?

- **Interview with the alleged actor(s)**

Unless the alleged actor(s) are members, it may be difficult to convince a third-party actor to speak with the Union. Even a member may not want to speak with the Union (even if the representative is assigned to assist them in the situation).

However, if you can get the alleged actor to agree to speak with you, below are best practices for interviews with the person alleged to have engaged in the behavior that is subject to the complaint:

- **Assign a different representative.** Note that if the accused is also a SMART member, it may be prudent to have a different union representative meet with the alleged actor to gather more facts about the reported incident.<sup>13</sup>
- **Interview each actor individually.** If more than one individual is alleged to have been engaged in the behavior leading to the complaint, they should always be interviewed separately. When it comes to interviewing the alleged actor(s), the best thing to do is to remain neutral with a view toward finding out what happened.
- **Provide an opportunity to respond.** Inform the individual of the allegations. Give them a full and uninterrupted opportunity to respond to each allegation.
- **Do not pre-judge the situation.** Whatever the complainant and/or witnesses have said should not influence your interview. There should not be any signs of your prejudging the accused of the alleged harassment or discrimination. Rather, you should ask the alleged actor to explain in their own words what happened.
- **Treat them with respect.** Regardless of what the individual is alleged to have done, treat them with respect. Thank the individual for their time and for being responsive to your questions and give them the opportunity to provide additional information after the interview.
- **Remain neutral.** If you believe the alleged actor's version of events, resist the urge to tell them this during the interview. Just like with the complainant, do not promise any outcome.
- **Warn them about retaliation.** You should also let them know that the Union will not tolerate retaliation against the complainant, even if the alleged actor feels this is unfair.

---

<sup>13</sup>) Refer to [page 30](#) for best practices on how to handle member on member complaints.

### Sample questions to ask during your interview:

- What is your response to the allegations?
- What happened?
- When did this happen?
- Where did this happen?
- If they claim that the allegations are false:
  - Ask whether there are any witnesses or other evidence to support their version of the story.
- Who else was present when this happened?
- Are there other people who have relevant information?
- Are there any notes, physical evidence, or other documentation regarding the incident(s)?
- Do you have any other relevant information?

### • Interview with the witness(es)

Here are some best practices to follow when interviewing a witness:

- **Remember the purpose of witness interviews.** The goal of questioning a witness is to gather information and understand the incident from multiple perspectives. By asking thoughtful questions, you can help ensure that the investigation is conducted fairly and impartially.
- **Inform them without making judgments.** Clearly communicate to witnesses that no judgments have been made about the validity of the complaint. This will ensure they don't feel pressured to respond in a particular way.
- **Stick to open-ended questions.** The best practice is to approach the witness with respect and sensitivity and to ask open-ended questions that allow them to share their observations and perspectives

### Sample questions to ask during your interview:

- What did you see or hear?
- When did this happen?
- Who else was present?
- Are there other people who have relevant information?
- Describe the alleged actor's behavior toward the complainant. Toward others in the workplace.
- Has this happened before? When? How often? Did you witness or hear about these instances? From whom?
- What did the complainant tell you? When did they tell you this?
- Do you know of anyone else who has similar concerns?
- Do you have any other relevant information?

## **6. Evaluate the Evidence and Conclude the Investigation**

After the initial interviews are completed, the Rapid Response Team should reconvene to evaluate the evidence and establish a plan for completing the investigation. This includes the following:

- Review the information provided by the complainant and the alleged actor(s) to **identify points of agreement and disagreement**. If different union representatives conducted the interviews, each should submit their own summaries.
- Review all investigation notes.
- Review all witness interview summaries.
- Review all documentary evidence obtained since the commencement of the investigation.
- Determine whether any other individuals should be interviewed or whether any witnesses should be re-interviewed.
- Determine whether any other documents must be obtained in order to complete the investigation.

Once the Union has all of the information it needs as part of the investigatory process, the Rapid Response Team should make its findings and determine how to proceed. This includes the following:

- Review all interview summaries.
- Review all documentary evidence obtained.
- Make credibility determinations – see the below tips.
- After evaluating the evidence, discuss and decide the appropriate next steps – see the list of potential options.<sup>14</sup>
- Draft a written summary of the investigation, including summaries of your conclusions, along with the recommendation for proceeding.

### » ***How to Make Credibility Determinations***

Assessing the credibility of the people you interviewed is a crucial step in conducting a fair investigation. On the next page are some key factors to consider when evaluating the credibility of individuals involved in an investigation.

---

14) See [page 38](#) for a list of the general options for proceeding.

It's important to approach the evaluation of credibility objectively and without bias yourself. Consider all relevant factors and weigh the evidence carefully before making a determination of credibility. Ultimately, the goal is to arrive at a fair and impartial determination of what occurred and what actions (if any) are necessary to address and correct the situation.

## ARE THEY CREDIBLE?

- **Consistency:** Are the statements of the individual consistent with other evidence, statements, and documentation collected during the investigation?
- **Plausibility:** Does the individual's version of events make logical sense given the other information gathered?
- **Corroboration:** Are there any other witnesses or pieces of evidence that support the individual's version of events?
- **Bias:** Does the individual have a personal interest or motive in the outcome of the investigation that may impact their credibility?
- **Demeanor:** Did the individual appear to be truthful and cooperative during the investigation? Were there any indications of deception or evasiveness?
- **Reputation:** Does the individual have a history of dishonesty, unethical behavior, or other credibility issues that may impact their credibility in this investigation?

## C. HOW TO PROCEED AFTER THE INVESTIGATION

You completed your investigation. Now what? This section explores the potential avenues for the Union to proceed.

### 1) What Can the Union Do?

Here are the general options for resolving discrimination and harassment complaints with the employer:

1. **Filing a grievance under the collective bargaining agreement.** The Union should confirm whether the incident violates the collective bargaining agreement (CBA) and whether it can pursue a grievance under the CBA.<sup>15</sup>
  - Review any anti-discrimination language or other applicable language (such as the management right's clause, safety clause, or work rules).
  - Contact your local attorney if you are unsure.

---

<sup>15</sup> In Canada, the law generally requires all complaints/issues arising in workplaces covered by a CBA (including harassment complaints) to be handled through the CBA's grievance and arbitration procedure with few exceptions. In some circumstances, however, workers can, if they so choose, bring these types of claims on their own to an applicable labour board and/or human rights tribunal instead of (or in addition to) the union pursuing a grievance in respect of the claim. This is a highly complex area, and we encourage you to speak with your legal counsel on any specific issues relating to jurisdiction of a complaint process.

- The grievance procedure is usually the fastest way to resolve any complaints, though some grievance procedures may result in deadlock, even at the final stage, which means there is no way to actually resolve the situation.
- 2. Filing a complaint under the employer's anti-discrimination/harassment policy.** The Union should review any employer policies on discrimination and harassment, including the proper procedure for reporting complaints, and advise the member of their options.
- The Union can offer assistance to help the member with filing their complaint and provide support.
  - If the employer fails to take action after a complaint is filed, it may face serious legal liability.
- 3. If the grievance procedure is not an option, or if the employer does not have an anti-discrimination/harassment policy, the Union can still approach the employer about the complaint.**
- The Union can always request a satisfactory resolution of the complaint on behalf of the member even if there are no formal procedures. The employer is ultimately responsible for providing a work environment free from discrimination and harassment.
  - The Union can ask the employer what actions and steps they are taking to investigate and address the situation.
  - The drawback is that the employer may not deal with the Union because it is not a CBA issue.
- 4. File a complaint against the employer with the EEOC or the equivalent state agency or equivalent provincial agency.**<sup>16</sup> The member can file a complaint on their own, and they do not need an attorney to file a complaint.
- This process can tend to be slow, though it may prompt the contractor to do something.
  - The Union is *not* involved in this process, though it can point the member in the right direction and provide moral support.
- 5. Provide a referral to an attorney.** If the member asks, the Union can work with its local attorney to refer the member to an attorney or to the state/provincial bar association. This is not necessary, but it may be a good gesture.

---

<sup>16</sup>) We recommend speaking with your legal counsel to confirm the appropriate agency or board of commission in your jurisdiction.

**TIP:** The best way to proceed will largely depend on your specific situation, which includes the following factors:

- The nature of the incident
- The language in your CBA
- Existing policies
- Your relationship with the contractor
- What evidence is available
- The member's wishes (however – decisions to file grievances always belong to the Union), and
- How your state/provincial agency operates.

## **2) How to Proceed Depending on the Results of the Investigation**

Below are recommendations on how to proceed depending on the results of your investigation:

- » **The investigation shows that the complaint was not substantiated (meaning the evidence does not support the complaint).**
  - *If the overwhelming evidence shows that the complaint did not occur as stated, the Union can choose not to take any further action. If the Union chooses this option, it should consider the following steps:*
    - First, consult with the Union's attorney.
    - Inform the member of the Union's decision and explain that based on the Union's investigation, the Union believes a grievance would not be successful and the Union will not file one. The Union decides whether grievances move forward, not members.
    - Inform the complainant that they have the right to file a complaint under any employer anti-discrimination/harassment policies, if available.
    - Inform the complainant that they have the right to file a complaint against the employer with the EEOC or the equivalent state agency or equivalent provincial agency.
    - Document this conversation and follow up in writing by email. [A sample letter is included in the appendix.](#)
  - *The Union may decide to pursue the grievance procedure in whole or in part on behalf of the complainant. If the Union chooses this option, here are some considerations:*
    - First, consult with the Union's attorney.



- Discuss with the complainant whether they want a grievance filed on their behalf. If the answer is yes, let the complainant know that based on the Union's investigation, the Union does not believe the resolution of the grievance will be successful, but it will proceed anyway. It is important to communicate the strength, or lack thereof, of the grievance. Note, however, that the complainant's consent is not required for the union to proceed with or drop the grievance.
  - Inform the complainant that they have the right to file a complaint under any employer anti-discrimination/harassment policies, if available.
  - Let the complainant know they also have the right to file a complaint against the employer with the EEOC or the equivalent state agency or equivalent provincial agency.
  - Document this conversation and follow up in writing by email. [A sample letter is included in the appendix.](#)
- » **The investigation appears to substantiate the complaint in full or in part (meaning the evidence supports the complaint).**
- First, the Union should consult with their local attorney to confirm the available options.
  - The Union should then have a discussion with the complainant to discuss potential options for proceeding.
  - The complainant may not want to proceed with their complaint at all. Inform them of the grievance deadline if they change their mind, let them know about any complaint procedures under the employer anti-discrimination/harassment policy, and also let them know they have the right to file a complaint against the employer with the EEOC or the equivalent state agency or provincial agency.
- If the complainant wishes to proceed, inform the complainant that the options are:
    - The grievance procedure, if available
    - Filing a complaint under the employer anti-discrimination/harassment procedure, if available
    - The Union approaching the employer about the complaint to start the discussion, and/or
    - Filing a complaint against the employer with the EEOC or the equivalent state/provincial agency.
    - You should discuss the benefits and drawbacks of each option. This discussion should help inform the Union how to proceed next.

- Note that it is the Union's decision whether to file the grievance, not the complainant's. Even if the grievant does not want to pursue the grievance procedure, the Union may ultimately decide to proceed with a grievance.

The Union should document the conversation and follow up in writing by email. [A sample letter is included in the Appendix.](#)

### **3) Steps if the Union is Proceeding with a Grievance**

Below are recommendations on how to proceed depending on the results of your investigation:

1. If appropriate, meet with the contractor that oversees the jobsite to discuss the appropriate resolution of the situation and/or corrective steps needed.
2. Initiate the grievance process where resolution cannot be reached with the contractor. The Union should be **mindful of time limits** for filing grievances under the CBA and ensure compliance with them.
  - You should **inform the grievant about meetings** with the employer about the grievance where the grievant is expected to attend.
3. If resolution is not reached at a certain stage of the grievance process, progress the grievance to the next step.
4. Communicate with the grievant to **keep them informed** on the status of their complaint/grievance at each stage – for example, Union decisions about whether to submit grievances to higher steps in the process, including arbitration, and decisions to close grievances. **Any decisions to close grievances should be communicated in writing.**
5. You should always inform the grievant of any offers from the employer. However, the Union can always settle or drop the grievance, even if the grievant doesn't want you to.
6. Document **every communication** with the complainant (whether in-person, by phone, or email) and keep a log of any communications with the grievant.
7. Promptly **return grievant calls** and **respond to emails.**
8. Note that if the grievant decides to file a charge with the EEOC or an equivalent local agency while the grievance procedure is ongoing, the Union should not automatically drop the grievance or decline to go to arbitration, especially if the external charge is against or involves the Union in some way. The Union could be held liable for retaliation against the grievant, which could be costly.

#### 4) What Asks Should the Union Make of the Employer?

##### a. *Pre-Investigation*

At the outset and depending on the nature of the offense, the Union should consider asking the contractor to take temporary measures during an investigation to minimize contact between the complainant and alleged actor to ensure the behavior stops and that it does not continue. This may involve the following requests:

- Altering work assignments so the alleged actor no longer works with or supervises the complainant on the jobsite. Ensure the contractor does not punish the complainant to accomplish this action (for example, by giving lesser assignments to the complainant or laying them off), as this appears retaliatory.
- Altering schedules so the alleged actor no longer works with the complainant or with other potentially vulnerable employees.
- For very serious allegations that present an ongoing danger to the member, placing the alleged actor on leave pending the investigation.

##### b. *Remedial Steps Post-Investigation*

If the investigation substantiates the complainant's allegations (meaning that the allegations were verified to be true in whole or in part), then employer needs to take the appropriate remedial steps to address the problematic behavior. Note that it is as important for the employer to take the proper remedial steps as it is to do a full, thorough, and proper investigation.

Remedial steps are essentially the actions taken to correct the problematic behavior. Remedial steps should be designed to stop bias; correct the effects of bias on the employee; and ensure bias does not recur. These corrective actions may include the following:

##### (1) Discipline

Based on the nature of the offense, the Employer may take **disciplinary action** against the individual who perpetrated the bias to include:

- An oral or written warning/reprimand
- Reassignment or demotion
- Termination/discharge

**TIP:** If the perpetrator *is not a member*, the Union can freely ask the Employer to take these actions, depending on the severity of the behavior.

If the perpetrator *is also a member*, then the Union should proceed with caution before requesting discipline. It does not necessarily violate the duty of fair representation to ask an employer to discipline a member, but it is presumed to be a violation. Were the disciplined member to sue the Union for it, then the Union would have the burden of demonstrating that its discipline request was necessary to effectively represent the entire bargaining unit. **Protecting members from discriminatory actions taken by another member may be a valid reason for requesting discipline, but the Union is strongly advised to consult with its counsel before doing so.**

## (2) Training

The Employer can require anti-bias training for employees on the jobsite. For incidents of a very serious nature, this may require the Employer to shut down the jobsite or shop to conduct the necessary training. If a jobsite is shut down for training, employers should pay their employees for their time spent in training. Employees will be more likely to take this training seriously, which will result in reduced liability for the Employer.

**TIP:** The Union should ask Employers to conduct training for employees and also request that members be paid for the time they spend in training.

The training can also take place at the individual employee level, which can include topics such as anti-discrimination/harassment or anger management.

## (3) Provide Support to Impacted Employee

- The employer should offer resources to the impacted employee, which may include counseling through the **Employee Assistance Program**, if there is one.
  - The Union should offer resources through SMOHIT, which may include the **SMART MAP Helpline** [877-884-6227] or the help of a trained **SMART MAP Peer Mentor** if the member needs additional support.
- The Employer can also require an **apology** by the harasser.
- Another option is for the Employer to **issue a communication** to all of its employees outlining acceptable behavior on the job.
- If an employee was laid off or otherwise missed pay due to the incident, the **employee can also be made whole by the employer**. The employer can provide the employee wages and benefits that the employee would have received if they had been treated properly.

**TIP:** The Union should be prepared to make the asks on the previous page of the employer in its representation of the affected member.

#### (4) Ongoing Monitoring

The Union should ask the employer to engage in ongoing monitoring to ensure the bias stops, that no additional incidents of bias occur, and that the complainant is not subjected to retaliation because of their complaint.

#### 5) ***Other Actions the Union Should Consider***

Besides resolving the matter with the Employer, below are other actions that the Union should consider:

1. File misconduct charges against the member under Article Seventeen (17), Sections 1(m) and 1(n) of the SMART Constitution. The Union can refer to the Redbook for more information on the union charges and trial process.
2. The Union can also ask stewards to monitor the jobsite and ensure that no more incidents of bias recur.
3. If the Employer finds that the issue does not rise to the level of illegal discrimination harassment, but the member demonstrates conduct unbecoming of a union sheet metal worker, the Local can have an on-the-record conversation with the accused about the seriousness of discrimination/harassment.
4. For serious incidents that are of a high-profile nature (for example, it is in the news) or that are being discussed by the membership, the Union should consider sending a communication to the membership about the incident through email and/or at a union meeting. This demonstrates to the members that the Union is taking this seriously and is addressing it head on. [Please see enclosed a sample letter in the Appendix.](#)<sup>17</sup>
5. Provide Bias and Belonging Training to the membership.

#### **D. WHAT THE UNION SHOULD KNOW ABOUT EMPLOYER RESPONSIBILITIES WITH RESPECT TO COMPLAINTS**

##### **\* Remember – the Union is an Employer Too!**

- The employer has the **ultimate responsibility** for ensuring the jobsite is free of discrimination and harassment. The employer is also liable for the acts of their agents and supervisors; acts of their non-supervisor employees if management knows and fails to take corrective action; and the acts of non-employees if management knows and fails to take corrective action.

---

<sup>17</sup>) Also refer to best practices on how to develop a statement responding to a severe incident on [page 47](#).

- Once the employer is on notice that a complaint of bias has been made (or is going to be made), the employer should **preserve all business records**. In the case of grievances, the Union can make Requests for Information in support of the grievance.

**TIP:** If a complaint involves the Union as an Employer, the Union should contact its local attorney immediately to ensure appropriate holds are placed on all relevant documents and information. Depending on the circumstances, evidence that needs to be preserved may include email, direct messages or texts on union phones, tablets, or computers, and surveillance video. The Union should issue a “notice of preservation of evidence” to all employees who may be in control or have access to any potential evidence related to the incident. IT should all be directed to back-up, maintain, and preserve any evidence potentially related to the incident. Note, in some cases, the notice can be non-specific, such as telling IT to retain and preserve all emails or other forms of electronic messages between a group or employees. In other cases, the Union may have to be specific about the type of allegation and people involved in order to have the right information preserved. This also may involve physical evidence as well.

- The employer has a clear legal obligation to **conduct a reasonable investigation** of any known incident of harassment or discrimination and to take any appropriate actions to stop the bad behavior and ensure it does not happen again.
- Note that depending on the incident, it may not be the sheet metal contractor that is conducting the investigation, even if it is the sheet metal contractor's employee who complained and/or their employee who is under investigation. If the alleged incident happened on a large jobsite, involved more than one trade, and/or was particularly egregious, **it is common for the general contractor to conduct the investigation** (with the affected contractors serving only as bystanders to the interviews of their employees, and recipients of reports generated from that investigation at the discretion of the owner and general contractor).
- The Employer has to **follow their anti-discrimination/harassment policies**.

**TIP:** If the Union has a policy as an Employer, this will help show that the Union is not bending or changing the rules for a certain person.

- Retaliation against an employee who made a complaint, regardless of its merit, is unlawful. **The Union should be vigilant in ensuring that no retaliation occurs against member who made a complaint or participated in an employer investigation.**

**TIP:** If the Union is dealing with an incident as an employer, the Union needs to ensure that it does not punish someone for filing a complaint or participating in an investigation/lawsuit. This includes (but is not limited to) termination, discipline, demotion, changing their job functions, and isolating the employee by leaving them out of meetings or other office functions. While it can be frustrating to receive a complaint of discrimination, especially when you are sure that you haven't done anything wrong, retaliatory acts are illegal, even if the complaint ends up not having any merit.

## **E. WHEN SHOULD THE UNION COMMUNICATE WITH MEMBERS?**

It is possible that a severe incident may result in media crisis, and preparation is key. Severe incidents in the construction industry have made headlines in the United States and Canada. Additionally, despite your best efforts at keeping a situation confidential and confined to those with a "need to know", word of an incident may spread among the members, which may require a swift response.

Under these circumstances, the Union may consider issuing a statement to members to address these concerns.

- This statement should be a pre-prepared, fill-in-the-blank template, so you can issue it in as little time as possible. It buys the Union time to better understand the situation, collect the facts, and ultimately issue something more detailed, if necessary. It also helps stop the rumor mill before it starts. This also prevents unnecessary public relations damage due to a communications delay.
- Note, however, that it is better to delay a statement by a few minutes rather than to rush out a poorly crafted comment that could backfire or make the situation worse.
- You want to be seen as responsive, empathetic, efficient, and aware of the gravity of the situation. You do not want your communication to appear to be "damage control", defensive, or a cover-up.
- You should only include definitive facts and not speculative details. Verify everything you say. Make sure that the statement is also authentic and appropriate for the situation at hand.
- You should have your attorney review any statement before issuing it.

[See a sample statement in the Appendix.](#) <sup>18</sup>

---

18) Also see a more general letter to the membership addressing an incident on [page 91](#).

# APPENDIX

## I. Equal Employment Opportunity (EEO) Policy Statement Template\*

*\*The purpose of this document is to provide a general policy SMART local unions and regional councils can use as a starting point for developing their own policy. It is provided for general informational purposes and does not and is not intended to constitute legal advice. SMART local unions and regional councils are encouraged to consult with local counsel before implementing any policy to ensure it complies with federal, state, provincial, and local law and any obligations the local union may have to employees, if any, who belong to a recognized bargaining unit.*

---

[Union Employer] complies with all federal, state/provincial, and local equal employment opportunity laws. In all hiring and employment practices, [Union Employer] makes every effort to ensure that it does not discriminate against employees and applicants. This policy addresses [Union Employer]'s commitment to providing equal opportunity employment for all employees and applicants and to promoting diversity in the workplace.

### **General Non-Discrimination Pledge**

This EEO Policy Statement is a reminder that all employees are protected from discrimination. [Union Employer] complies with all laws prohibiting discrimination against employees and applicants based on race, ethnicity, ancestry, color, religion, age, creed, national origin or citizenship, sex including pregnancy or breastfeeding, gender including gender identity or expression, sexual orientation, marital/parental/family status, political affiliation, military or veteran status, disability, medical condition and genetic characteristics or other legally-protected class.

Equal opportunity extends to all aspects of the employment relationship, including hiring, promotions, training, working conditions, compensation, and benefits. Consistent with these obligations, [Union Employer] also provides reasonable accommodations to employees and applicants with disabilities and for sincerely held religious beliefs, observances, and practices.

Employees and applicants are also protected against retaliation. Acts of retaliation against an employee who engages in protected activity, such as reporting discrimination or harassment or participating in the investigation process, will not be tolerated at [Union Employer].

We must be diligent in maintaining a workplace free from discrimination. This includes working to ensure that harassment, on any protected basis, does not occur at [Union Employer]. All employees have a duty not to engage in harassing conduct and to report any such conduct if it occurs.

### **Promoting Diversity**

[Union Employer] values and promotes diversity. Diversity is the practice of recognizing and embracing the differences between individuals that make each person unique. [Union Employer] believes that promoting diversity plays an important role in attracting the widest



pool of qualified applicants, fostering greater innovation and creativity, and enhancing our communication and relationships with our members and community.

[Union Employer] is committed to enhancing our diversity and demonstrating that commitment to our employees, members, and community. [Union Employer] promotes diversity by developing policies, programs, and procedures that foster a work environment in which differences are respected and all employees are treated fairly.

## II. Anti-Discrimination and Anti-Harassment Policy Template (United States)<sup>1</sup>

[UNION EMPLOYER] will not tolerate discrimination or harassment on the basis of any protected class including race, ethnicity, ancestry, color, religion, age, creed, national origin or citizenship, sex including pregnancy or breastfeeding, gender including gender identity or expression, sexual orientation, marital/parental/family status, political affiliation, military or veteran status, disability, medical condition and genetic characteristics or other legally-protected class. This policy applies to [UNION EMPLOYER] in its capacity as an employer and its purpose is to ensure a work environment which is free of discrimination or harassment of any kind for all employees.

### **EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of [UNION EMPLOYER] to ensure equal employment opportunity to all applicants for employment and employees without regard to race, ethnicity, ancestry, color, religion, age, creed, national origin or citizenship, sex including pregnancy or breastfeeding, gender including gender identity or expression, sexual orientation, marital/parental/family status, political affiliation, military or veteran status, disability, medical condition and genetic characteristics or other legally-protected class (hereinafter referred to as "Protected Classes"). In addition, [UNION EMPLOYER] prohibits discrimination or harassment that is based upon a Protected Class. This policy applies to all management practices and decisions and terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

Employees and applicants are also protected from retaliation for engaging in protected activity such as reporting discrimination or unlawful harassment or participating in an investigation into a complaint of discrimination or harassment.

It is the policy of [UNION EMPLOYER] to investigate reports of discrimination, harassment and retaliation promptly and thoroughly.

### **INDIVIDUALS AND CONDUCT COVERED BY THIS POLICY**

This policy applies to all applicants for employment and [UNION EMPLOYER] employees, including supervisors, managers, business agents and full-time officers. It applies to interactions [UNION EMPLOYER] employees have with one another as well as with [UNION EMPLOYER] members, members of other trades, vendors, suppliers, independent contractors and others doing business with the union. This policy prohibits [UNION

---

1) The purpose of this document is to provide a general discrimination and harassment policy SMART local unions can use as a starting point for developing their own policy. It is provided for general informational purposes and does not and is not intended to constitute legal advice. SMART local unions are encouraged to consult with local counsel before implementing any policy to ensure it complies with federal, state and local law and any obligations the local union may have to employees, if any, who belong to a recognized bargaining unit.

EMPLOYER] employees from engaging in conduct that is discriminatory or harassing on the basis of a Protected Class and aims to protect [UNION EMPLOYER] employees if they are subject to such discriminatory or harassing conduct.

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting such as business trips, jobsites, membership meetings, business meetings and [UNION EMPLOYER] -related social events.

### **PROHIBITED HARASSMENT**

Harassment under this policy is defined as unwelcome verbal, visual or physical conduct that denigrates or shows hostility or aversion towards an individual because of any actual or perceived Protected Class, and which has the purpose or effect of:

1. unreasonably interfering with an individual's work performance;
2. creating an intimidating, hostile or offensive working environment; or
3. otherwise adversely affecting an individual's terms and conditions of employment.

Prohibited harassment under this policy may be verbal (e.g., slurs, jokes, insults, epithets, gestures, negative stereotyping or teasing), visual (e.g., offensive posters, symbols, cartoons, drawings, computer displays, text messages, social media posts or e-mails) or physical conduct (e.g., physically threatening another or blocking someone's way). Because it is difficult to define all of what can amount to unlawful harassment, employees are expected to behave at all times in a manner consistent with the intended purpose of this policy.

The intent of this policy is to deter disrespectful, intimidating, hostile, degrading, humiliating or offensive behavior. Such conduct violates this policy, even if it does not rise to the level of a violation of applicable federal, state, provincial or local laws.

### **SEXUAL HARASSMENT**

Sexual harassment is a form of prohibited sex discrimination. Unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct becomes, in any way, a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting the individual's employment, whether explicitly or implicitly; or,
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment takes many forms. It can include, but is not limited to, the following:

- Direct and indirect suggestions that an employee's job security, job assignment, conditions of employment or opportunities for advancement depend in any way on the granting of sexual favors or relations;
- Unwelcome sexual flirtations, propositions, and invitations to social events;
- Unwelcome physical contact or physical closeness, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, and fondling, including forced sexual contact;
- Use of words of a sexual nature describing body parts or sexual acts, telling "suggestive" jokes or stories, and conversations about sexual exploits or sexual desires;
- Displaying in the workplace sexually suggestive objects, pictures, cartoons, or representations of any action or subject which is sexual in nature, and which can be perceived as offensive, including on computer screens, tablets or smart phones; and
- Sabotaging an employee's character, reputation or advancement because of sex or gender.

### **IMPORTANCE OF COMMUNICATION**

Respect for coworkers and effective communication are necessary elements in achieving the goals of a workplace free from discrimination, harassment and offensive or inappropriate behavior. It is assumed that respectful and courteous behaviors are the usual forms of communication. However, because the workplace is composed of individuals who have varying levels of sensitivity, individuals are sometimes not aware of the offensive nature of their behavior or communications. If an employee is comfortable speaking directly to the person engaging in offensive behavior, employees are encouraged to take this step.

### **REPORTING AN INCIDENT OF HARASSMENT OR DISCRIMINATION**

If an employee has experienced or witnessed discrimination, harassment, offensive or inappropriate behavior, [UNION EMPLOYER] encourages them to report their concerns regardless of the offender's identity or position. Individuals who believe that they have been the victim of such conduct can report their concerns with any of the following people: [EXAMPLES: Human Resources, Business Manager/Regional Council President, Office Manager]. Individuals are not required to make their complaint to any particular supervisor or staff member, especially if that supervisor or staff member is the perpetrator or if they are not comfortable discussing the complaint with them.

For managers and supervisors, reporting employee concerns or observed behavior in violation of this policy is mandatory. Reports should be made to [EXAMPLES: Human

Resources, Business Manager/Regional Council President, Office Manager.]

Once [UNION EMPLOYER] has received a report of harassment, offensive behavior or retaliation, the following course of action will take place:

1. An employee may be asked to put the facts surrounding the offensive conduct or communication in writing.
2. [UNION EMPLOYER] will take steps to investigate the complaint. The investigation may include interviews with the individual making the claim, the accused individual and appropriate witnesses, depending upon the relevant circumstances.
3. During the complaint and investigation process, the confidentiality of the information received, the privacy of all individuals involved and the wishes of the complaining person will be protected to the greatest extent possible.
4. When the investigation is concluded, the determination of whether the complained of behavior violated this policy, will be made on a case-by-case basis, depending upon the circumstances of the matter, including the type of harassment alleged, the context in which the alleged harassment occurred and any other facts deemed relevant.
5. The employee making the complaint will be kept apprised of the status of the investigation and advised of the final disposition of the matter.
6. If the complaint is substantiated, [UNION EMPLOYER] will take immediate and proportionate corrective action.
7. A violation of this policy may be grounds for discipline, up to and including discharge, or other appropriate action. Discipline will be determined on a case-by-case basis, after a review of relevant information. Responsive action may include, for example, training, referral to counseling or disciplinary action such as a warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay or termination, as [UNION EMPLOYER] believes appropriate under the circumstances.
8. [UNION EMPLOYER] will not retaliate against an employee for making a report under this policy, and [UNION EMPLOYER] will not tolerate or permit retaliation by management, co-workers or third-parties against an employee who brings a complaint of discrimination or harassment or who participates in the investigation of a complaint of prohibited discrimination or harassment.

False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate disciplinary action.

Any questions regarding your obligations and those of others under this policy should be directed to \_\_\_\_\_.

## **PERSONAL RELATIONSHIPS**

A "personal relationship" is herein defined as a non-marital one between individuals who have or have had a continuing relationship of a romantic or sexual nature. Personal relationships between employees, while not forbidden, are considered by [UNION EMPLOYER] as unwise and having the potential for charges of inappropriate behavior or sexual harassment. Supervisors and managers, however, are prohibited from having personal relationships with subordinates and may be disciplined for such actions, up to and including termination.

If a personal relationship between employees develops, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to \_\_\_\_\_. Upon this disclosure, the individuals will be counseled on this policy, including the potential ramifications of having a personal relationship in the workplace and possible ways to address the issue.

[UNION EMPLOYER] reserves the right to take prompt action if an actual or potential conflict of interest arises involving individuals engaged in a personal relationship that may affect terms and conditions of employment. A potential conflict of interest arises in situations such as when the individuals' work responsibilities overlap or an individual can affect the work of the other.

When an actual or potential conflict arises and no other alternatives would resolve it, the individuals concerned, with the [UNION EMPLOYER], will be given the opportunity to decide who is to be transferred to another position or terminated if no other position is available. If no decision is made within 30 calendar days of the offer to resolve the situation, [UNION EMPLOYER] will determine who is to be transferred or, if necessary, terminated from employment. [UNION EMPLOYER] will make this determination consistent with its operational needs, the abilities and work skills of the employees and the availability of positions.

## **HOW TO GET MORE INFORMATION**

Any questions regarding your obligations and those of others under this policy should be directed to \_\_\_\_\_.

## II (a). Canadian Workplace Harassment Policy Template

### [Union Employer] Canadian Workplace Harassment Policy<sup>1</sup>

---

#### **Policy Statement:**

[Union Employer] is committed to working with its employees to provide a safe work environment. [Union Employer] will not tolerate acts of workplace harassment and will take all reasonable and practical measures to prevent workplace harassment and protect employees from such acts.

#### **Application:**

This policy applies to all employees of [Union Employer] and all members and visitors while on [Union Employer]'s premises or at off-premises [Union Employer] events.

#### **Definitions:**

"workplace harassment" means,

- (a) 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, or
- (b) workplace sexual harassment.

"workplace sexual harassment" means,

- (a) 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
- (b) 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.

---

1) The purpose of this document is to provide a general policy SMART local unions and regional councils can use as a starting point for developing their own policy. It is provided for general informational purposes and does not and is not intended to constitute legal advice. SMART local unions and regional councils are encouraged to consult with local counsel before implementing any policy to ensure it complies with federal, state, provincial, and local law and any obligations the local union may have to employees, if any, who belong to a recognized bargaining unit.

This policy is not intended to interfere with normal social interaction between employees or between employees and members/visitors to [Union Employer]. Workplace harassment does not include consensual banter or appropriate performance reviews, counseling and disciplinary action. A reasonable action taken by the [Union Employer] relating to the management and direction of workers or the workplace is not workplace harassment.

### **Rights and Responsibilities:**

#### **Employee Rights and Responsibilities**

Employees are entitled to a workplace free from harassment.

Employees have the responsibility to treat each other with respect, and to report to management if they, or others, are being harassed.

Employees have the responsibility to co-operate in the investigation of a harassment complaint. Anyone who provides evidence in an investigation or who is otherwise involved in the investigation process must keep this information confidential, except when it is necessary to deal effectively with the complaint, or where required by law.

Employees have the right to file a complaint with the [insert appropriate tribunal or administrative body].

#### **Management Responsibilities**

Management must take all reasonable and practical measures to prevent workplace harassment.

Management will take the appropriate corrective action with anyone who subjects an employee to harassment.

Management will not disclose the name of a complainant, an alleged harasser, or the circumstances of the complaint, to anyone except where disclosure is necessary to investigate the complaint, take disciplinary or other corrective action, or where required by law.

### **Complaint Procedure:**

If an employee is being harassed, s/he should tell the harasser exactly what it is s/he has done wrong, that the comment and/or conduct is unwelcome, and that the employee wishes it to stop. The harasser may not know that his/her conduct is unwelcome. An employee can do this in person or in writing.

An employee should keep a record of the harassment and the attempts to stop it including a brief description of what occurred, the time and date of the occurrence, and any witnesses to the occurrence.



In the event that the vexatious comment or conduct is repeated or continues, or if the employee is not comfortable in directly confronting the harasser, the employee should bring his/her concerns to management immediately.

An employee may file a formal complaint against the harasser with management. Complaints must be filed in writing and include an outline, in as much detail as possible, of the vexatious comment or conduct in question.

In the event that the alleged harasser is management, then an employee may file a formal complaint with [insert appropriate arms length entity] will conduct the investigation as set out below.

### **Investigation Procedure:**

Once a complaint has been filed, the following procedures will be carried out by management as expeditiously as possible:

The person named in the complaint as the harasser will be notified, in writing, that an investigation is taking place. S/he will be given a copy of the written complaint and will be given an opportunity to file a written response to the complaint.

Management will conduct an investigation and interview all parties involved, including any possible witnesses. The alleged harasser and the complainant are expected to cooperate fully and provide any required information.

Management shall provide a written report identifying the findings of the investigation.

### **Disposition of the Complaint:**

Management shall review the report and determine if any corrective measures are required. Management shall take such corrective measures as are reasonable and practical.

Employees found to have engaged in harassment will be subject to discipline up to and including discharge.

Employees who retaliate against someone who files a complaint will be subject to discipline up to and including discharge.

Employees who file false complaints in bad faith will be subject to discipline up to and including discharge.

Employees who, in good faith, file complaints which are found to be unsubstantiated will not be subject to discipline.

Members or visitors who are found to have harassed an employee are subject to such corrective measures as may be appropriate, including, but not limited, being barred from attending at or visiting [Union Employer]'s premises or off-premises events.

**Confidentiality:**

Management will not disclose a complainant's or an alleged harasser's name or any circumstances about a complaint to anyone except where necessary to investigate the complaint, take disciplinary or other corrective action, or where required by law. Employees involved in a complaint are reminded to keep all information confidential, except in the above circumstances.

**Education:**

[Union Employer] committed to continuing the education of all its employees regarding this policy and workplace harassment in general.

### III. U.S. Equal Employment and Opportunity Commission (EEOC) Anti-Harassment Policy Checklist<sup>1</sup>

An anti-harassment policy is a key component of a holistic harassment prevention effort. Check the box below if your anti-harassment policy contains the following elements:

- o An unequivocal statement that harassment based on any protected characteristic will not be tolerated.
- o An easy-to-understand description of prohibited conduct, including examples.
- o A description of a reporting system - available to employees who experience harassment as well as those who observe harassment - that provides multiple avenues to report, in a manner easily accessible to employees.
- o A statement that the reporting system will provide a prompt, thorough, and impartial investigation.
- o A statement that the identity of an individual who submits a report, a witness who provides information regarding a report, and the target of the complaint, will be kept confidential to the extent possible consistent with a thorough and impartial investigation.
- o A statement that any information gathered as part of an investigation will be kept confidential to the extent possible consistent with a thorough and impartial investigation.
- o An assurance that the employer will take immediate and proportionate corrective action if it determines that harassment has occurred.
- o An assurance that an individual who submits a report (either of harassment experienced or observed) or a witness who provides information regarding a report will be protected from retaliation from co-workers and supervisors.
- o A statement that any employee who retaliates against any individual who submits a report or provides information regarding a report will be disciplined appropriately.
- o Is written in clear, simple words, in all languages commonly used by members of the workforce.

*A reminder that this checklist is meant to be a useful tool in thinking about and taking steps to prevent harassment in the workplace, and responding to harassment when it occurs. It is not meant to convey legal advice or to set forth legal requirements relating to harassment. Checking all of the boxes does not necessarily mean an employer is in legal compliance; conversely, the failure to check any particular box does not mean an employer is not in compliance.*

---

1) This checklist was authored by the EEOC and can be found [here](#).

## IV. U.S. Equal Employment and Opportunity Commission (EEOC) Harassment Policy Tips<sup>1</sup>

- State that harassment based on [race](#), [religion](#), [sex](#), including [pregnancy](#), [sexual-orientation](#), or [gender identity](#), [national origin](#), [disability](#), [age](#) (40 or older) or [genetic information](#) (including family medical history) is illegal and will not be tolerated. Provide definitions and examples of prohibited conduct, as needed.\*
- Explain how employees can report harassment.
  - If possible, designate at least one person [outside an employee's chain of command](#) who can receive harassment complaints.
  - Consider permitting employees to report harassment to any manager.
- State that you will protect the [confidentiality](#) of employees who report harassment or participate in a harassment investigation, to the greatest possible extent.
- State that employees will not be [punished](#) for reporting harassment or participating in a harassment investigation or lawsuit.
- Require managers and other employees with human resources responsibilities to [respond appropriately](#) to harassment or to report it to individuals who are authorized to respond.
- Provide for prompt, thorough and impartial [investigation](#) of harassment complaints.
- Provide for prompt and effective [corrective and preventative action](#) when necessary.
- Consider requiring that employees who file internal complaints be notified about the status of their complaint, the results of the investigation and any corrective and preventative action taken.
- Describe the consequences of violating the harassment policy.

\* [Federal](#), state and local laws may prohibit additional types of harassment. Federal, state and local government websites may have additional information about these laws.

### See also:

[How can I prevent harassment?](#)

[General Non-Discrimination Policy Tips](#)

[Reasonable Accommodation Policy Tips](#)

[Leave Policy Tips](#)

---

1) These Policy Tips were authored by the EEOC and can be found [here](#).

## V. Union Code of Conduct Template

### SMART [LOCAL OR REGIONAL COUNCIL NAME] CODE OF CONDUCT TEMPLATE<sup>1</sup>

#### PURPOSE

[Local or Regional Council Name] is committed to providing an environment free of discrimination and harassment, regardless of an individual's race, ethnicity, ancestry, color, religion, age, creed, national origin or citizenship, sex including pregnancy or breastfeeding, gender including gender identity or expression, sexual orientation, marital/parental/family status, political affiliation, military or veteran status, disability, medical condition and genetic characteristics or other legally-protected class. As such, [Local or Regional Council Name] will not tolerate discriminatory, harassing, or otherwise unacceptable behavior at any of its activities, events, or meetings.

We are all responsible for creating an environment that reflects our shared values and helps every member feel respected and safe. That means we each need to be deliberate and thoughtful every day about how we are interacting with one another. We are choosing as a union to prioritize this because we know it is crucial both to our individual health and well-being and to our union's effectiveness.

[Local or Regional Council Name] adopts the following Code of Conduct and expects those that participate in any of its activities, events, or meetings to abide by it.

#### DEFINITIONS

##### A. Discrimination

It is discrimination to make any decision or judgment based on another person's race, ethnicity, ancestry, color, religion, age, creed, national origin or citizenship, sex including pregnancy or breastfeeding, gender including gender identity or expression, sexual orientation, marital/parental/family status, political affiliation, military or veteran status, disability, medical condition and genetic characteristics or other legally-protected class.

##### B. Harassment

Harassment consists of unwelcome verbal, visual, or physical conduct that is based on another person's race, ethnicity, ancestry, color, religion, age, creed, national origin or citizenship, sex including pregnancy or breastfeeding, gender including gender identity or expression, sexual orientation, marital/parental/family status, political affiliation, military or veteran status, disability, medical condition and genetic characteristics or other legally-protected class. It may include, but is not limited to, actions such as use of epithets, slurs, negative stereotyping, jokes, or threatening, intimidating, or hostile acts

---

<sup>1</sup>) The purpose of this document is to provide a general policy SMART local unions and regional councils can use as a starting point for developing their own policy. It is provided for general informational purposes and does not and is not intended to constitute legal advice. SMART local unions and regional councils are encouraged to consult with local counsel before implementing any policy to ensure it complies with federal, state, provincial, and local law and any obligations the local union may have to employees, if any, who belong to a recognized bargaining unit.

that relate to sex, race, age, disability, or other protected categories. Harassment may also include written or graphic material that denigrates or shows hostility toward an individual or group based on protected characteristics, whether that material is sent by email, placed on walls, bulletin boards, computer screens or other devices, or elsewhere on the premises of the activity, event, or meeting.

### **C. Sexual Harassment**

Sexual harassment can involve unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature. It can involve conduct by a person of either sex toward a person of the same or opposite sex.

### **EXPECTED BEHAVIOR**

[Local or Regional Council Name] expects all participants in [Local or Regional Council Name]-sponsored activities, events, or meetings to conform to the following Code of Conduct:

- Respect others and their views
- Recognize and value individual differences
- Bring compassion and kindness to all interactions
- Be collaborative and inclusive – work to break down cliques and go out of your way to engage members who seem to not be engaged in conversation. Say hello and be friendly when we see each other.
- Be sure you do not engage in aggressive, bullying, threatening, or intimidating behavior
- Do not engage in discriminatory or harassing behavior
- Actively oppose discriminatory or harassing behavior

### **UNACCEPTABLE BEHAVIOR**

[Local or Regional Council Name] is a democratic institution that values open and vigorous discussion of the issues important to this union and its membership. This Code of Conduct is not intended to restrict free and open debate, but rather is concerned with preventing unacceptable behavior, as detailed below. Unacceptable behavior includes, but is not limited to, the following:

- Discriminatory or harassing speech or actions, including cyberbullying or cyberharassment, by any participant at a [Local or Regional Council Name] activity, event, or meeting, including all related activities or one-on-one communications surrounding the [Local or Regional Council Name] activity, event, or meeting
- Harmful or offensive verbal or written comments or visual images related to race, ethnicity, ancestry, color, religion, age, creed, national origin or citizenship, sex

including pregnancy or breastfeeding, gender including gender identity or expression, sexual orientation, marital/parental/family status, political affiliation, military or veteran status, disability, medical condition and genetic characteristics or other legally-protected class.

- Inappropriate use of nudity and/or sexual images in meeting or public spaces
- Bullying or stalking
- Harassing photography or recording
- Uninvited sexual attention or contact
- Physical assault (including uninvited touching or groping)
- Real or implied threat of physical harm

### **IF SUBJECT TO UNACCEPTABLE BEHAVIOR**

Prior to the start of any [Local or Regional Council Name] activity, event, or meeting, attendees will be informed of this Code of Conduct, and a designated contact to whom complaints may be directed will be identified for all attendees. If the activity, event, or meeting is reoccurring, notification of the Code of Conduct and identification of the designated contact will occur yearly, or as necessary when the designated contact changes.

If you are subject to what you believe is unacceptable behavior under this Code of Conduct, or witness such behavior, please inform the designated contact immediately. If they are not available, you may inform any other officer, who will work with the designated contact to respond to the complaint. [Local or Regional Council Name] takes these complaints seriously, and may, at its discretion, take action that it deems appropriate upon assessing the situation. Possible responses may include a warning to or expulsion of the alleged offender from the activity, event, or meeting. Additionally, where appropriate, [Local or Regional Council Name] may file charges and initiate disciplinary proceedings under the SMART Constitution. If needed or requested, [Local or Regional Council Name] will help complainants contact security or local law enforcement, provide escorts, or otherwise assist complainants experiencing unacceptable behavior to feel safe for the duration of the activity, event, or meeting.

Any complaint will be treated confidentially to the extent possible to properly assess the situation. [Local or Regional Council Name] will take all appropriate steps to ensure that the complainant is no longer subject to the unacceptable behavior.

[Local or Regional Council Name] will not tolerate retaliation against any individual who complains of unacceptable behavior under this Code of Conduct. It will take every step necessary and appropriate to ensure that retaliation does not occur, and if it believes that retaliation has occurred, [Local or Regional Council Name] will take immediate action to stop the retaliation.

## VI. Anti-Bullying Policy Template<sup>1</sup>

[SMART Local XX/Council] is committed to ensuring that all members feel safe, secure, and unafraid in their workplaces. Bullying in any form contradicts the basic principles of this organization and may constitute a chargeable offense under Article Seventeen (17) of the SMART Constitution, and it is not tolerated by any member, local union or regional council officer or staff, or any other individual who is acting on behalf of the union.

[Local XX/Council] seeks to foster an environment that is capable of preventing and responding to bullying. We expect all members, officers, and staff to contribute towards making their work environment feel safe for others. Those individuals who are found to have engaged in bullying, regardless of whether this occurs one time or consistently, may find themselves charged under the Constitution and disciplined by the union, which can carry serious consequences. Individuals who witness the bullying of others are expected to follow the proper procedures for reporting it and ensuring that it does not continue to occur. In some cases, failure to meaningfully adhere to this policy may amount to aiding bullying itself, which may make witnesses vulnerable to charges and discipline under the same constitutional provisions.

Nothing in this policy is intended to replace, supersede, or offer an official interpretation on the SMART Constitution, and all questions on the implementation of this policy should be directed to the [Business Manager/Council President/Other Person].

### SCOPE

The first part of this policy provides a definition of bullying based on the environment that bullying creates, both for the direct victims of bullying and for bystanders. It identifies some of the actions, behaviors, and language that commonly accompany bullying, with particular emphasis on local meetings and jobsites. This policy does not set out to limit the definition of bullying to these examples and should not be seen as a definitive index of all behaviors that cause a member or employee to feel bullied by another. Bullying occurs in many different forms and often overlaps with other behaviors that are not tolerated in this organization (such as harassment based on gender identity, race, or national background). Any definition of bullying provided by this policy is intended to assist members in recognizing and responding to its occurrence.

The second part of this policy concerns the responsibilities of those who are witnesses to bullying without themselves being its direct object. It will establish the procedures and resources for members, officers and local or regional council staff to respond to instances of bullying when it has occurred.

---

1) The purpose of this document is to provide a general policy SMART local unions and regional councils can use as a starting point for developing their own policy. It is provided for general informational purposes and does not and is not intended to constitute legal advice. SMART local unions and regional councils are encouraged to consult with local counsel before implementing any policy to ensure it complies with federal, state, provincial, and local law and any obligations the local union may have to employees, if any, who belong to a recognized bargaining unit.



## DEFINITION

Bullying is defined as any action that intends to cause a person to feel demeaned, threatened, intimidated, embarrassed, or vulnerable, and can occur in both verbal and non-verbal forms. What distinguishes bullying from such interactions that might incidentally produce an unpleasant effect is that bullying specifically intends to produce a negative impact on its victims as one of its primary aims.

Bullying can encompass any of the following behaviors:

- Making physical or non-physical threats or intimidation, including shouting at members, neglecting members' personal space, and attempting to control another physically.
- Demeaning a member's contributions, work or the quality of their work, ideas or values, or personal history, as well as repeatedly emphasizing and reminding a member of past mistakes, errors, or perceived failures.
- Sabotaging a member's ability to succeed, including by intentionally offering incorrect information, giving impossible tasks, and/or spreading defamatory or private information about the member, including undermining a member at the union or at a jobsite.
- Teasing, taunting, mocking, or ridiculing a member or drawing attention to a member in order to embarrass them, especially if repeated and in the company of others.
- Disputing basic information to a member ("gaslighting") in order to cause them to feel uncertain, confused, or insecure, and incorrectly conveying a member's words or ideas to others in order to isolate a member or harm their relationships.

Regarding offenses for which any of the above behaviors might cause a member to be charged, Article Seventeen (17) of the SMART Constitution includes the following:

- Section 1(k): "Failure or refusal to abide by the rules of order and parliamentary procedure in the meetings of a local union, council, committee or board or creating any disturbance therein. . ."
- Section 1(l): "Committing or attempting or threatening to commit any physical assault upon any officer or member of this Association, or of any subordinate unit thereof, while in the performance of their duties."
- Section 1(m): "Engaging in any conduct which is detrimental to the best interests of this Association or any subordinate unit thereof or which will bring said unions into disrepute."

- Section 1(n): "Engaging in any conduct that is harassing, hazing, bullying or discriminating against any person or group of persons, while in the workplace or performing work duties, or at union facilities or functions, or acting as an agent of this Association, because of their race, color, religion, age, creed, national origin, sex, gender including gender identity or expression, sexual orientation, marital/parental/family status, veteran status, disability or other legally-protected class."

## **PROCEDURES**

[Local XX/Council] has implemented the following procedures to address bullying when it occurs on a jobsite or during the course of union business.

### Reporting

A member who experiences bullying or witnesses the bullying of another member will be able to safely and confidentially report these instances to [Local XX/Council officers and staff. Officers and staff will receive suitable training and preparation on how to handle these reports sensitively and in accordance with the aims of this policy.

### Responding

Reports of bullying are considered serious and will result in an investigation by [Local XX/Council]. During an investigation into reports of bullying, [Local XX/Council] will meet with the reported offender as well as others who may be familiar with the situation, depending on whether the bullying occurred on a job site, at a union facility or event, or in another context. During this process, the reporter's anonymity will be protected to the extent possible, and information will be shared on a need-to-know basis, but complete confidentiality cannot be assured. If it is determined that bullying has occurred, the situation will be addressed in accordance with the provisions of the [Local XX/Council] bylaws and policies and the SMART Constitution.

### Notification

This policy will be posted at [Local XX/Council], distributed to members, and announced during the next regular union meeting. Further information will be made available upon request. Officers and staff will receive training on carrying out their responsibilities under this policy.

## VI (a). Canadian Workplace Violence Policy Template

### [Union Employer] Canadian Workplace Violence Policy<sup>1</sup>

---

#### **Policy Statement:**

[Union Employer] is committed to working with its employees to provide a safe work environment. [Union Employer] will not tolerate acts of workplace violence and will take all reasonable and practical measures to prevent workplace violence and protect employees from such acts.

#### **Application:**

This policy applies to all employees of [Union Employer] and all members and visitors while on [Union Employer]'s premises or at off-premises [Union Employer] events. This policy is not intended to discourage or prevent anyone from exercising any other rights that they may have under applicable law.

#### **Definition:**

"Workplace Violence" means:

- (a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- (b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to a worker;
- (c) 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.

#### **Rights and Responsibilities:**

##### **Employee Rights and Responsibilities**

Employees are entitled to a workplace free from violence.

---

1) The purpose of this document is to provide a general policy SMART local unions and regional councils can use as a starting point for developing their own policy. It is provided for general informational purposes and does not and is not intended to constitute legal advice. SMART local unions and regional councils are encouraged to consult with local counsel before implementing any policy to ensure it complies with federal, state, provincial, and local law and any obligations the local union may have to employees, if any, who belong to a recognized bargaining unit.

Employees have the right to refuse to work or do particular work where s/he has reason to believe that workplace violence is likely to endanger herself or himself, in accordance with the [insert appropriate Occupational Health & Safety Act or applicable legislation].

Employees are responsible for working together in a professional manner and resolving issues in a non-violent manner. Employees are to bring issues to the attention of management if they cannot be mutually resolved.

Employees should take all reasonable steps to protect their personal safety and remove themselves from a violent situation.

Employees who are required to handle cash in the course of fulfilling their employment duties shall do so in a discreet manner which, to the extent practicable, minimizes its visibility to members and visitors to [Union Employer]'s premises.

Employees must report incidents of violence to management immediately. They must also co-operate in the investigation of a violent incident. Anyone who gives evidence or information in an investigation or is involved in the process must keep this information confidential, except when it is necessary to deal effectively with the issue, or where required by law.

### **Management Responsibilities**

Management must ensure, as much as reasonably practical, that employees are not subjected to violence in the course of performing their workplace duties.

Management will assess the risk of workplace violence that may arise from the nature of the workplace, the type of work and the conditions of work. Management will report the results of the assessment to the joint health & safety committee or to a health & safety representative. Management will reassess the risk of workplace violence as often as is necessary.

Management will develop and maintain a program to implement this policy and review the policy on an annual basis.

Management will take corrective action with anyone under their direction who subjects an employee to violence.

Management will not disclose the name of a complainant or the circumstances of the complaint to anyone except with consent of the complainant, or where such disclosure is necessary to investigate the complaint, take corrective action or where such disclosure is required by law.

### **Reporting Incidents of Violence:**

In circumstances where workplace violence has occurred or is imminent, help should be summoned by using a pre-arranged distress signal or any other appropriate means.

All incidents of workplace violence must be reported to management immediately. If a physical assault occurs, the police must also be contacted.

If an employee witnesses an incident of workplace violence the employee must complete the [insert applicable Workplace Violence Incident Report Form]. The form must be completed for all incidents that fall within the scope of the definition of "Workplace Violence" set out in this policy.

### **Prevention and Response:**

When an actual incident of violence has occurred or when there is a reasonable expectation that a violent incident will occur, management will take the following steps to ensure the safety of employees:

- (a) Management will advise employees who are at risk. They will also co-ordinate a review of current procedures to minimize risk.
- (b) All available information about the source of violence will be provided to the employees who are at risk and any others where it may be applicable.
- (c) Depending on the circumstances, appropriate steps will be taken to protect employees.

Employees who have been victims of violence will be:

- (a) Encouraged to get medical help;
- (b) Given the opportunity to be examined by a physician;
- (c) Provided with transportation if required.

If management becomes aware that domestic violence would likely expose an employee to physical injury in the workplace, management will take every reasonable precaution in the circumstances to protect the employee from such physical injury.

No employee shall be permitted to work alone unless appropriate precautions are in place.

Procedures for preventing workplace violence will be reviewed and revised as necessary to prevent further violence.

### **Discipline:**

Violent incidents will be investigated by management and the results of the investigation will be shared with any affected employees.

Employees found to have engaged in violence will be subject to discipline up to and including discharge.

**Education:**

[Union Employer] is committed to continuing the education of all its employees regarding this policy and workplace violence in general.

## VII. Lactation and Breastfeeding Policy Template<sup>1</sup>

[UNION EMPLOYER] recognizes the right of every individual to determine and attend to their own physical, personal, and social needs, including breastfeeding and lactating. [UNION EMPLOYER] believes that, regardless of one's personal circumstances, protecting the right to breastfeed and/or lactate free from judgement, undesired attention, and/or ridicule is essential for supporting some of our hardest-working and most capable members, and furthermore begins to redress a prejudice that has historically prevented women from participating equally and freely in our trade.

This policy applies to individuals employed by [UNION EMPLOYER], including supervisors, managers, business agents and full-time officers. [UNION EMPLOYER] will provide employees who are nursing parents, during the first year following their child's birth, with:

1. Reasonable break time for a nursing parent to express breast milk for their nursing child each time the need arises. [UNION EMPLOYER] will not unreasonably limit the amount of time or the frequency that an employee expresses breast milk. [UNION EMPLOYER] will speak with the employee to determine a schedule of breaks that reasonably accommodates the pumping needs of the employee.
2. A place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public and contains at least one electrical outlet, a surface to place the pump and other personal items and a chair, which may be used by an employee to express breast milk. When more than one employee needs to use the designated lactation room, [UNION EMPLOYER] will discuss various options with all employees who use the lactation room to determine what arrangement addresses each employee's needs such that each employee has access to the lactation room amenities. Options may include finding an alternative clean space free from intrusion, sharing the space among multiple users, or creating a schedule for use. Any accommodation will ensure each employee is afforded a reasonable amount of time to pump. Even if the lactation room is available, an employee who wishes to pump at their usual workspace will be permitted to do this so long as the employee receives approval from [UNION EMPLOYER].
3. The means to store the expressed breast milk at the appropriate temperature.

### Process for Requesting Lactation Breaks

Employees who intend to take lactation breaks should notify [HR/Office Manager/BM] and their immediate supervisor. A request may be made orally or in writing. [UNION

---

1) The purpose of this document is to provide a general policy SMART local unions and regional councils can use as a starting point for developing their own policy. It is provided for general informational purposes and does not and is not intended to constitute legal advice. SMART local unions and regional councils are encouraged to consult with local counsel before implementing any policy to ensure it complies with federal, state, provincial, and local law and any obligations the local union may have to employees, if any, who belong to a recognized bargaining unit.

EMPLOYER] recognizes that employees' lactation needs may change over time. Employees may request changes to their existing lactation breaks at any point.

**No Retaliation**

No employee shall suffer threats, harm or retaliation for requesting or using lactation breaks under this policy. Any employee who believes they have been retaliated against in violation of this policy should notify HR/Office Manager/BM] as soon as possible. [UNION EMPLOYER] will not tolerate any form of abuse, harassment, or bullying of those who utilize lactation breaks.



## VIII. Paid Family Leave Policy (United States Template)<sup>1</sup>

[UNION EMPLOYER] recognizes that employees may need to be absent from work to care for or bond with a newborn child or a newly adopted or newly placed foster child (referred to as parental leave in this policy), or to receive pregnancy-related healthcare (referred to as pregnancy leave in this policy).

Under [UNION EMPLOYER]'s Paid Family Leave Policy (the "Policy"), eligible employees may receive up to 12 weeks of paid parental leave following the birth of an employee's child or the placement of a child with an employee in connection with adoption or foster care. In addition, the policy provides 10 days of paid pregnancy leave to attend prenatal and related medical appointments or to attend required meetings during the adoption and guardianship process.

### Eligibility

A [UNION EMPLOYER] employee is eligible to receive paid parental or pregnancy leave if the employee:

- Is employed on a full-time or part-time, non-temporary basis (e.g. temporary employees, interns and outside consultants are ineligible); AND
  - For paid parental leave–
    - Has been employed for at least one consecutive year with [UNION EMPLOYER] and has worked at least 1,000 hours in the past 12 months; AND
    - Has given birth to a child OR is a spouse or committed partner of someone who has given birth to a child OR has adopted a child or been placed with a foster child, provided the child is age 17 or younger.
  - For paid pregnancy leave–
    - Has been employed for at least one consecutive year with [UNION EMPLOYER] and has worked at least 1,000 hours in the past 12 months; AND
    - Has been diagnosed as pregnant by a health care provider and is prior to birth.

[UNION EMPLOYER] will consider requests for paid parental and pregnancy leave from employees who do satisfy the employment longevity requirements on a case-by-case basis.

---

1) This policy is devised to operate in tandem with family leave under the U.S. federal Family & Medical Leave Act (FMLA). Many local unions and councils do not employ enough employees to be subject to the FMLA. Local unions and councils interested in adopting a similar policy should first research what, if any, family leave benefits are available or mandated at their state, provincial or local level. The enactment of paid family leave laws has been a growing trend at the state level, but the approaches each state has taken have differed. As with the other template policies in this Protocol, local unions and councils are strongly advised to consult with local counsel before enacting any policy.

## **Duration and Use**

An employee who is eligible to receive paid parental leave may receive up to 12 weeks of paid parental leave following the birth, adoption or placement, which may be used for purpose of bonding with the newly born, adopted or placed child.

An employee who is eligible to receive paid pregnancy leave may receive up to 10 days of paid pregnancy leave prior to the birth of the child, which may be used for routine and specialty appointments, exams, and treatments associated with pregnancy provided by a health care provider, including prenatal check-ups, ultrasounds, treatment for pregnancy complications, bedrest that is prescribed by a health care provider, and prenatal physical therapy, or to attend required meetings during the adoption and guardianship process.

## **Amount**

An eligible employee who takes qualifying parental leave will be paid at XX% of their weekly salary or average weekly earnings. For non-salaried employees, average weekly earnings will be determined by dividing the total wages the employee received over the 12 weeks immediately prior to the leave by 12, provided that average weekly earnings shall be capped at the employee's hourly wage multiplied by 40.

An eligible employee who takes qualifying pregnancy leave will be paid their regular salary or hourly earnings for the duration of their leave.

## **Terms**

Receipt of paid parental and pregnancy leave shall be subject to the following terms:

- Paid parental leave will only be available within one year of the child's birth, adoption or placement.
- Employees shall receive paid parental leave for one continuous period of leave. Paid parental leave will be available on an intermittent basis only with [UNION EMPLOYER]'s prior approval.
- If less than a full day of pregnancy leave is used, it will be charged in 15-minute increments.
- Employees who receive paid parental leave agree to return to work for at least 12 weeks following the period of paid parental leave. Any employee who violates this agreement will agree to reimburse [UNION EMPLOYER] for any amount paid under the Policy.
- Any unused paid parental leave will be forfeited at the end of the 12-month period following the child's birth, adoption or placement, and any unused paid pregnancy leave will be forfeited once the term of pregnancy has concluded.

- Should the employment relationship between an employee and [UNION EMPLOYER] end for any reason, the employee will not be paid for any unused paid parental or pregnancy leave for which they were eligible.
- Employees utilizing paid parental leave are prohibited from outside employment on any day during the period of their leave for which they receive paid parental leave. Any employee found in violation of this prohibition will agree to reimburse [UNION EMPLOYER] for any amount paid under the Policy.

### **Coordination with Other Policies**

Paid parental leave will run concurrently with available leave, if any, under the FMLA and any similar state law which provides for unpaid, job-protected leave. If an employee meets the employment requirements for receiving FMLA leave or leave under a similar state law and has already exhausted that leave, they are not eligible to receive paid parental leave. Paid pregnancy leave will not run concurrently with leave under the FMLA, such that if the employee is also approved for FMLA leave to bond with a newborn child, they may still be eligible for the full 12 weeks of paid parental leave.

Employees may use other forms of paid leave (e.g. sick or vacation) in lieu of taking paid parental or pregnancy leave. Use of these forms of paid leave during parental leave may count towards the maximum leave periods under the FMLA and any similar state law which provides for unpaid, job-protected leave, and thereby reduce the employee's eligibility for paid parental leave. As an example, an employee who qualifies to take parental leave under the FMLA and uses paid sick leave for the first four weeks would only be entitled to eight additional weeks of paid parental leave.

Your job will be held for you in accordance with applicable law while you are on pregnancy or parental leave. If you are on pregnancy-related disability leave, when you are able to return to work, you must submit certification from your health care provider stating you are medically able to return to your normal duties. Your continued absence from work beyond your required disability leave period (as determined by your health care provider) and exhaustion of all other available leave may be deemed a voluntary abandonment of your job. Nothing in this policy requires [UNION EMPLOYER] to reemploy individuals who are not eligible for reemployment rights under applicable law.

### **Requesting Paid Parental or Pregnancy Leave**

To receive paid parental leave, an employee must request leave with the employee's direct supervisor and/or Human Resources and be approved for their period of leave. To receive paid pregnancy leave, an employee must follow the same protocols which apply to using paid sick leave, including by notifying your direct supervisor and Human Resources as far in advance as possible. If an employee has taken three or more consecutive days of paid pregnancy leave, [UNION EMPLOYER] may request certification of the need for it.

Paid parental and pregnancy leave needs to be requested in advance of the days the employee requests to use it for; it will not be paid retroactively.

## **Discrimination and Retaliation Prohibited**

[UNION EMPLOYER] prohibits and will not tolerate discrimination or retaliation against any employee or applicant because of that person's pregnancy or parental leave. Specifically, no one will be denied employment, reemployment, promotion, or any other benefit of employment or be subjected to any adverse employment action based on that person's pregnancy or parental leave. In addition, no one will be disciplined, intimidated, or otherwise retaliated against because that person exercised rights under this policy or applicable law.

[UNION EMPLOYER] is committed to enforcing this policy against discrimination and retaliation. However, the effectiveness of our efforts depends largely on employees telling us about inappropriate workplace conduct. If employees feel that they or someone else may have been subjected to conduct that violates this policy, they should report it immediately. If employees do not report such conduct, [UNION EMPLOYER] may not become aware of a possible violation of this policy and may not be able to take appropriate corrective action.

## **Improper Use**

[UNION EMPLOYER] may take disciplinary action, up to and including termination, against an employee who requests and/or uses paid parental or pregnancy leave for purposes other than those described in this Policy.

## IX. Section 1(n) Resolution for Locals and Council

### RESOLUTION Adopted by the Membership

WHEREAS Sheet Metal, Air, Rail and Transportation Workers Local Union No. ## ("SMART Local ##") actively enforces the SMART Constitution and Ritual; and

WHEREAS the membership of SMART Local ## stands firmly against any conduct that violates Article Seventeen (17), Section 1(n) of the SMART Constitution ("Section 1(n)") because it is "harassing, hazing, bullying or discriminating against a person or group of peoples, while in the workplace or performing work duties, at union facilities or functions, or acting as an agent of this Association, because of their race, color, religion, age creed, national origin, sex, gender including gender identity or expression, sexual orientation, marital/parental/family status, veteran status, disability or other legally-protected class;" and

WHEREAS conduct in violation of Section 1(n) is a serious infraction which offends the dignity of members, undermines solidarity between members and tarnishes the reputation of SMART Local ## with workers, employers and the public; and

WHEREAS the damage caused by conduct in violation of Section 1(n) to SMART Local ## and its members is always significant, but often difficult to measure with precision;

THEREFORE, BE IT RESOLVED THAT the membership of SMART Local ## approves as reasonable the issuance of fines in the amount of \$3,000 for violations of Section 1(n), a sum which the trial committee may increase or decrease as appropriate under the circumstances, in addition to any other discipline.<sup>1</sup>

---

1) SMART Local Unions in Louisiana and Mississippi should consult with local counsel before enacting this resolution.

# X. Juneteenth Flyer

# FREEDOM DAY


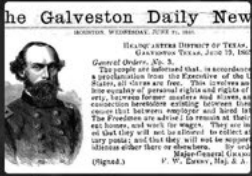


# JUNETEENTH

## June 19

### WHAT IS IT?

Juneteenth (short for "June Nineteenth") marks the day when federal troops arrived in Galveston, Texas in 1865 to take control of the state and ensure that all enslaved people be freed. The troops' arrival came a full two and a half years after the signing of the Emancipation Proclamation. Juneteenth honors the end of slavery in the United States and is considered the longest-running African American holiday.

## JUNETEENTH CHRONOLOGY


 <p><b>1863</b> January 1</p> <p>The Emancipation Proclamation, issued by President Lincoln, went into effect; however it could not be implemented in places still under Confederate control.</p>	 <p><b>1865</b> June 19</p> <p>2,000 Union troops arrived in Galveston, Texas. The army announced that more than 250,000 enslaved Black people in the state were free by executive decree.</p>	 <p><b>1865</b> December 6</p> <p>The 13th Amendment of the Constitution was ratified, officially abolishing slavery in the United States.</p>	 <p><b>1866</b> June 19</p> <p>Formerly enslaved people in Galveston celebrated a year of freedom with the "Juneteenth" holiday. Juneteenth celebrations quickly spread to the rest of the country, and continue to be the oldest known tradition honoring the end of slavery in the U.S.</p>
---	--	---	---

“


If the cruelties of slavery could not stop us, the opposition we now face will surely fail. Because the goal of America is freedom, abused and scorned tho' we may be, our destiny is tied up with America's destiny.

”

- Martin Luther King Jr.







Use the QR code to visit the NMAAHC Juneteenth website to learn more



How can I CELEBRATE ???

- 1 Attend a Juneteenth festival or event in your community.
- 2 Watch a documentary, read or listen to books written by Black authors and poets.
- 3 Support Black-owned businesses.
- 4 Volunteer or donate to Black-led nonprofits and community organizations.
- 5 Attend a virtual event or webinar.
- 6 Visit the National Museum of African American History and Culture (NMAAHC).

## **XI. Build a Women's Committee or Diversity Committee at Your Local Union or Regional Council**

*This document was developed from materials produced by the SMART Women's Committee.*

### **WHAT IS A COMMITTEE?**

A body of persons delegated to consider, investigate, take action on, or report on some matter.

### **WHY FORM A WOMEN'S COMMITTEE OR DIVERSITY COMMITTEE?**

People of organized, union labor have made enormous progress in wages, working conditions, benefits, job security and human rights. If working women and members of color are to gain equality, they must work with and through their unions.

A Women's Committee or Diversity Committee is a place for women and members of color to gain leadership skills, to raise issues and organize to make changes, and to connect with other SMART women and members of color and build support networks in the workplace. Local Union Women's Committees and Diversity Committees are a key element in the struggle for equality in the workplace.

A Women's Committee or Diversity Committee can provide a safe zone for members to identify and create their own culture where they can speak out about concerns and identify strategies to engage with and change the dominant culture.

### **HOW TO GET STARTED**

Women and people of color need unions today more than ever and unions need women and people of color more than ever as well. Unions are only as strong as the involvement and determination of their members. Local Union Women's Committees and Diversity Committees are a key part of building our union.

Approach the local leadership with a proposal identifying needs and opportunity within your local and your community.

You can start small: a good committee need not have lots of members, but rather ones that are committed to the idea. However, it is recommended that an odd number be selected to serve to prevent tie votes.

Once your committee is established you should meet regularly—at least as often as local union meetings are held.

Many local union Women's Committees and Diversity Committees have budgets; however, this must be determined once the committee goals and agenda are set. Active committees often conduct fundraisers to help implement programs.

Setting up a new Women's Committee or Diversity Committee will involve:

- Talking to other women and people of color in your workplace and other workplaces in your local union.
- Setting a date for your first meeting and publicizing it.
- Setting some goals.
- Spreading the word. As your committee work gets going, invite others to join.

### **COMMITTEE STRUCTURE**

- Vision Statement
- Mission Statement
- Appoint a Chairperson
- Create Sub-committees and appoint a chair to each sub-committee

### **WHAT CAN YOUR COMMITTEE DO TO HELP WOMEN WORKERS AND WORKERS OF COLOR?**

- Encourage women and workers of color to speak out about sexual harassment and discrimination on the job. Encourage women and workers of color to speak up about any issues.
- Examine the health care benefits in your contract to see if they discriminate against women, and recommend to the local ways to equalize benefits in the next contract.
- Look for avenues for child care and work-life balance support.
- Identify and inform your members of community resources for women and workers of color.
- Move the union or organization to address certain issues such as childcare, maternal leave, sexual harassment, discrimination, and unequal access to promotions.
- Increase the number of women and members of color in leadership positions.
- Sponsor or encourage skills-training for women members and members of color, such as public speaking, running a meeting, or running for office.
- Set up a mentoring program for potential new female leaders and leaders of color.
- Encourage more women and members of color to participate in union activities and seek out and support women and members of color to run for elected positions.



- Participate in all national union women's and human rights campaigns.
- Provide support to existing leadership by offering information on equity issues and opportunities to learn and do more.
- Actively support the development of new leaders from equity seeking groups. Women's Committees and Diversity Committees can be a great place for workers to build the confidence and skills necessary to become active in their local unions and communities, develop relationships with other activists, work with community groups and other union committees, and be part of making meaningful change.
- Work with other standing committees and equity caucuses to support one another's issues.
- Work with local labor councils, women's organizations, and organizations focused on diversity to coordinate and support events and campaigns in your area. (Contact your local union leadership to find out who your labor council delegates are.)
- Ensure all members have access to at least some form of anti-harassment training.
- Work with the leadership and the JATC.
- Connect with community groups and bring a trade union and working-class perspective on issues like poverty reduction, childcare, shelter services, etc.
- Talking to other women and people of color in your workplace and other workplaces in your local union.
- Be creative in working to ensure that the diversity of the membership is reflected in the overall composition of the leadership and membership of the union.
- Put an "equity lens" on all issues within the local union, and actively support changes to collective bargaining agreements, by-laws, local union practices, and union 'culture', that will lead to greater inclusion of all members.
- These goals can be reached through establishing regular monthly meetings.
- Sub-committees can be set up on issues such as: education, bargaining, community involvement, anti-discrimination, or women's health.

## **HOW TO MAKE YOUR COMMITTEE WORK**

- Establish a regular monthly meeting time and place. Send out notices at least one week before each meeting. Have a prepared agenda.
- Set up subcommittees to perform the work of the committee: training and education,

bargaining issues, special programs, fundraising, and liaison with other women's groups or diversity groups are only some examples.

- Educate committee members with the policies within your local union that affect women and members of color.
- Invite union staff to meet with the committee. In this way, you can help ensure cooperation between the work of the committee and other programs of the local union.
- A union is only as strong as the workers who join and participate in it. The more that women and members of color take an active role in the union, the greater their influence in improving the status of women and members of color, and the greater the strength of the union in bargaining for their rights.

### **TOPICS THAT CAN BE ADDED TO SUB-COMMITTEES**

- Leadership Training
- Health & Welfare
- Pension
- Super Woman Mentality
- Current Legislative Issues
- Family/Work
- Networking/Mentoring
- Union Building
- Women or People of Color in Politics
- Financial Issues
- Social Health Issues
- Community Service
- Anti-Discrimination
- Domestic Violence
- Sexual Harassment
- Advancement through the Union

## MAKING MEETINGS EFFECTIVE

Every committee meeting should include something useful and educational for members – an interactive quiz, a quick report back from all of the committee members (and their workplaces), a short video, a short discussion about a newspaper article, a guest speaker, a book review, etc.

Here are some additional tips for making your meeting more successful:

**Have a purpose.** Ask yourselves, why are you meeting? What do you hope to accomplish? Are you meeting to plan an event, to learn, to reenergize and to deal with standard items, or just one of these things? Be aware that some members see the Committee's work as about 'getting things done', and other members may see it as providing informal support for their issues - both of these perspectives are valid and they represent needs that should be met in a meeting.

Consider how often you need to meet. A good meeting gives people energy – a poorly planned, unfocused meeting sucks energy. Nobody likes to meet for the sake of meeting. Don't meet if you don't have a plan – and if you're meeting to develop a plan, think carefully ahead of time about a good process for developing on and for reaching a consensus.

**Plan ahead.** Where will the meeting be held? If space needs to be booked be sure to do this in advance. Be strategic about the timing of your meetings (i.e. can you hold them to coincide with membership meetings so that you can bring you issues forward?). Do you want new people to attend your meetings? If yes, how will you get the word out? Studies show the majority of people get involved in social movements because someone asked them to (not because they saw a poster, or were even committed to the issues). Don't assume people will show up if they're interested – people need to be invited. Again. And again. As well as making personal contact, use your local union newsletter to invite people to join the Women's Committee or Diversity Committee – by making it sound interesting and letting them know they're needed. Consider what it would be like to be a new person at one of your meetings – how are new people welcomed? How are they brought into the discussions so they don't feel left out? Distribute an agenda in advance so people can prepare. All committees will have a down fall and up flow of attendance at meetings. Attendance will be increased when people feel there is progress made on projects identified as important. Leaving the meeting with clear ideas of actions that have been agreed on and who has agreed to take these actions. Remember that tasks need to be spread out to develop skills and to ensure we don't burn out.

Some locals have found alternating between meetings in-person and online or by conference call have been effective. Remember to keep the Women's Committee and Diversity Committee updated on your projects and successes!

## XII. Sample Complaint Intake Form<sup>1</sup>

### DISCRIMINATION, HARASSMENT, AND RETALIATION COMPLAINT FORM TEMPLATE

#### COMPLAINANT INFORMATION

Name: \_\_\_\_\_

Phone number: \_\_\_\_\_ Email address: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Preferred method of contact: \_\_\_\_\_

---

#### DETAILS OF COMPLAINT

Incident Date(s): \_\_\_\_\_

Describe the Incident(s) (include the location of the incident, who was involved, any injuries, etc.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List any witnesses to the incident(s) or those who have knowledge/information regarding this complaint (include their contact information if you know it):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

<sup>1</sup>) The purpose of this document is to provide a general form SMART local unions and regional councils can use as a starting point for developing their own form. It is provided for general informational purposes and does not and is not intended to constitute legal advice. SMART local unions and regional councils are encouraged to consult with local counsel before implementing any form to ensure it complies with federal, state, provincial, and local law and any obligations the local union may have to employees, if any, who belong to a recognized bargaining unit.

*By signing this complaint form, I affirm to the best of my knowledge that the information contained herein is true and factual, while also establishing consent and release of the above information for the purposes of an investigation. I understand that the completion of this form or the filing of a discrimination, harassment, and/or retaliation complaint does not extend the time for filing a complaint with an outside agency, or in a court of law.*

Complainant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Received by Union Official**

Name and Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### **XIII. Sample Response Letter to Member – Unsubstantiated Complaint (No Grievance) United States\***

*\*As with all templates provided in this Protocol, local unions and regional councils are strongly advised to consult with local counsel before sending any correspondence to a member.*

DATE

Member Name

Member Address

Re: Your Complaint

Dear Brother/Sister,

I'm writing to follow up on our phone call from [DATE], during which we discussed your complaint and potential options. To recap my understanding, around DATE, you brought to the Union's attention that [insert what member told the union]. Since that time, the Union has conducted a thorough investigation into your complaint, including [insert what the Union has done – e.g., met with employer, spoke with witnesses, etc.].

Please be advised that based on the investigation, the Union believes that pursuing a grievance in this instance would not be successful. Accordingly, the union will not [file a grievance OR advance the grievance further.]

Notwithstanding the Union's decision not to [file a grievance OR pursue the grievance further], you may have the right to file a Charge of Discrimination for [type of discrimination or harassment, including retaliation] with the [name of state agency and website link] and/or the Equal Employment Opportunity Commission (EEOC) (<https://www.eeoc.gov>). You can file this charge directly with either of these agencies, and you do not need an attorney. If you wish to hire an attorney, please contact [insert information for state bar association attorney referral program and website link]. While the Union does not play a role in this process (the employee is the one who files the charge with [the Equal Employment Opportunity Commission and/or state agency]), please let us know if you'd like our support in helping you fill out a charge of discrimination or being present with you as you go through this process.

You may also be able to file a complaint under the employer's anti-discrimination/anti-harassment policy. [Insert language from policy, including what conduct is prohibited and how to file a complaint.] Please let us know if you'd like our support in helping you file the complaint or being present with you as you go through this process.

Please let me know if you have any questions about the above. Your Union is here to support you as you navigate this difficult situation. If we can further assist you in any way, please do not hesitate to let me know. In addition, I want to make you aware of the SMART MAP Helpline number, (877) 884-6227, which is a free and confidential service for SMART members to discuss any issues in their work or personal lives.

In Solidarity,

UNION OFFICIAL NAME AND TITLE

## **XIV. Sample Response Letter to Member – Unsubstantiated Complaint (Next Steps) United States\***

*\*As with all templates provided in this Protocol, local unions and regional councils are strongly advised to consult with local counsel before sending any correspondence to a member.*

DATE

Member Name

Member Address

Re: Your Complaint

Dear Brother/Sister,

I'm writing to follow up on our phone call from DATE, during which we discussed your complaint and potential options. To recap my understanding, around DATE, you brought to the Union's attention that [insert what member told the union]. Since that time, the Union has conducted a thorough investigation into your complaint, including [insert what the Union has done – e.g., met with employer, spoke with witnesses, etc.].

Please be advised that based on the investigation, the Union does not believe that pursuing a grievance in this instance would be successful. [Insert brief explanation of the grievance's shortcomings]. Although your consent is not required for the Union to proceed with or to drop a grievance, the Union may still elect to proceed here with a grievance against the Employer for [insert the form of discrimination or harassment at issue – e.g. sexual harassment, discriminatory termination based on race, etc.], if you so desire. To do so, the Union must meet the deadlines under the CBA. Let us know immediately if you'd like us to pursue this option and at the very latest by DATE. We put the employer on notice during our meeting on DATE and we can further progress your complaint through the grievance procedure.

Notwithstanding the Union's decision to proceed or not to proceed with a grievance, you may have the right to file a Charge of Discrimination for [type of discrimination or harassment, including retaliation] with the [name of state agency and website link] and/or the Equal Employment Opportunity Commission (EEOC) (<https://www.eeoc.gov>). You can file this charge directly with either of these agencies, and you do not need an attorney. If you wish to hire an attorney, please contact [insert information for state bar association attorney referral program and website link]. While the Union does not play a role in this process (the employee is the one who files the charge with [the Equal Employment Opportunity Commission and/or state agency]), please let us know if you'd like our support in helping you fill out a charge of discrimination or being present with you as you go through this process.

You may also be able to file a complaint under the employer's anti-discrimination/anti-harassment policy. [Insert language from policy, including what conduct is prohibited and how to file a complaint.] Please let us know if you'd like our support in helping you file the complaint or being present with you as you go through this process.

Please let me know if you have any questions about the above. Your Union is here to support you as you navigate this difficult situation. If we can further assist you in any way, please do not hesitate to let me know. In addition, I want to make you aware of the SMART MAP Helpline number, (877) 884-6227, which is a free and confidential service for SMART members to discuss any issues in their work or personal lives.

In Solidarity,

UNION OFFICIAL NAME AND TITLE



## **XV. Sample Response Letter to Member – Substantiated Complaint United States\***

*\*As with all templates provided in this Protocol, local unions and regional councils are strongly advised to consult with local counsel before sending any correspondence to a member.*

INSERT DATE

Member Name  
Member Address

Re: Your Complaint

Dear Brother/Sister,

I'm writing to follow up on our phone call from [insert date] where we discussed your complaint and your potential options.

To recap my understanding, around [insert date], you brought to the Union's attention that [insert facts from situation and what member told the union].

On [insert date], the Union [insert what the Union has done – met with the employer, spoke with witnesses, etc.].

Based on the above, your options are as follows:

### **1. File a grievance under the Collective Bargaining Agreement (CBA)**

The Union enforces members' rights under the CBA. Under Article XX, Section XX, an Employer cannot discriminate against an employee because of [INSERT LANGUAGE FROM CBA]. The Union can file a grievance against the Employer for [insert the of discrimination or harassment at issue – for example, sexual harassment, discriminatory termination based on your race, etc.], but we must meet the deadlines under the CBA. Let us know immediately if you'd like to pursue this option and at the very latest by [INSERT DATE]. We put the employer on notice during our meeting on [INSERT DATE], and we can further progress your complaint through the grievance procedure.

We consulted our Union attorney, and [insert language that they should know – for example, their odds of success, what remedies are available such as reinstatement, backpay].

### **AND/OR**

2. File a charge with the [U.S. Equal Employment Opportunity Commission/state or provincial agency].

You have the right to file a Charge of Discrimination for [type of discrimination or harassment, including retaliation] with the [name of state or provincial agency and website link or the Equal Employment Opportunity Commission (EEOC) (<https://www.eeoc.gov>)]. You can file this charge directly with either of these agencies, and you do not need an attorney. If you wish to hire an attorney, please contact [insert information for state bar association attorney referral program and website link].

While the Union does not play a role in this process (the employee is the one who files the charge with [the Equal Employment Opportunity Commission or state/provincial agency]), please let us know if you'd like our support in helping you fill out a charge of discrimination or being present with you as you go through this process.

**AND/OR**

3. File a complaint under the employer's anti-discrimination/anti-harassment policy.

You have the right to file a complaint under the employer's anti-discrimination/anti-harassment policy. [Insert language from policy, including what conduct is prohibited and how to file a complaint.] Please let us know if you'd like our support in helping you file the complaint or being present with you as you go through this process.

Let me know if you have any questions about the above. Your Union is here to support you as you navigate this difficult situation. If we can further assist you in any way, please do not hesitate to let me know. In addition, I want to make you aware of the SMART MAP Helpline number, (877) 884-6227, which is a free and confidential service for SMART members to discuss any issues in their work or personal lives.

In Solidarity,

UNION OFFICIAL NAME AND TITLE

## XVI. Sample Letter to Membership Addressing an Incident\*

*\*As with all templates provided in this Protocol, local unions and regional councils are strongly advised to consult with local counsel before sending any correspondence to a member.*

Date

To the membership of SMART Local ##:

I am writing with an important message on a sensitive topic: diversity, equity and inclusion. I recognize that conversations around these topics can be uncomfortable. I have no intention of shaming anybody for who they are, what they believe or where they come from. But that discomfort we feel around issues of diversity, equity and inclusion must not be allowed to prevent the conversation from happening altogether.

This is a conversation we deeply need to have. At the 2019 SMART Convention, our union committed itself to doubling the number of woman journeypersons in our ranks. We resolved to publicly display our embracement of equality, diversity and inclusion. And we made clear that harassment, hazing, bullying and discrimination have no place in our union. These resolutions set an agenda we are obligated to see through. We owe it to our union and to our members who are most directly impacted by inequality and prejudice.

Prioritizing diversity, equity and inclusion is also strategic. Diversity strengthens our workforce, benefits our communities and makes the unionized sheet metal industry stronger. Those whom we reject end up as our competition. Our unified goal then must be to shift the mindset of union leaders, membership and management to recruit, welcome and retain the most competent and skilled workforce available, while embracing the differences that make each of us unique. Prioritizing diversity, equity and inclusion is not only the right thing to do; it is the necessary thing to do.

As I mentioned before, I have no interest in shaming anybody for who they are, what they believe or where they come from. But as we progress on this path together, please be advised that certain behavior will not be tolerated. At the 2019 Convention, our union also amended Article Seventeen (17) of the SMART Constitution and Ritual. Under Section 1(n), it is now a chargeable offense to engage:

*in any conduct that is harassing, hazing, bullying or discriminating against any person or group of persons, while in the workplace or performing work duties, or at union facilities or functions, or acting as an agent of this Association, because of their race, color, religion, age, creed, national origin, sex, gender including gender identity or expression, sexual orientation, marital/parental/family status, veteran status, disability or other legally-protected class.*

Harassing, hazing, bullying and discriminatory behavior is absolutely unwelcome in this union. Members on the receiving end of this behavior should notify the union immediately, and members who perpetrate it will be charged accordingly under Articles Seventeen (17) and Eighteen (18).

In conclusion, our union is at its strongest when we stand as one. A robust commitment to diversity, equity and inclusion, through which all are made to feel welcome, is an integral part of our unity. I hope you will all join me in embracing the values that make this union great as we move forward together.

In Solidarity,

[NAME]

## **XVII. Sample Statement Addressing Severe Incident\***

*\*As with all templates provided in this Protocol, local unions and regional councils are strongly advised to consult with local counsel before sending any correspondence to a member.*

DATE

To the membership of SMART Local ##:

By now, many of you have likely heard about an incident involving alleged discrimination and/or harassment that occurred [DATE – better to keep vague, e.g. “last week”] at a jobsite our members were working at.

Your Union is vigorously investigating this incident. While we cannot offer further comment about the incident at this time, we want our members to be assured that their Union takes it and all allegations of discrimination and/or harassment seriously. Discrimination has no place in this Union or in our industry. It will only be through the diligent efforts of all industry partners that it will be identified and eradicated. Local ## intends to do its part and to hold employers accountable to do theirs.

I would like to remind members of some of the resources Local ## makes available for those who believe they have witnessed or experienced discrimination. All members can report incidents involving alleged discrimination to Local XX's “I Got Your Back” Representative NAME. NAME has been trained on responding to these types of incidents. They can be reached at EMAIL. Members are also encouraged to participate in Local XX's Women's Committee and/or BE4ALL/Diversity Committee. To get involved in the Women's Committee, members should contact Committee Chair NAME at EMAIL. To get involved in the BE4ALL/ Diversity Committee, members should contact Committee Chair NAME at EMAIL. Lastly, I want to ensure you are aware of the SMART MAP Helpline number, (877) 884-6227, which is a free and confidential service for SMART members to discuss any issues in their work or personal lives.

In Solidarity,

UNION OFFICIAL NAME AND TITLE