



BASKETBALL NEW BRUNSWICK

WORKPLACE HARASSMENT POLICY (Adapted from Canada Basketball)

APPLICATION

1. This Policy applies to all individuals who perform work for Basketball New Brunswick (BNB) including employees, managers, supervisors, temporary workers, volunteers, student volunteers, part-time workers, the Board of Directors, and independent contractors (“Workers”) who feel they have been harassed within the Workplace.
2. Incidents of wrongdoing or misconduct observed or experienced by participants, volunteers, spectators, parents of participants, or other individuals not employed or contracted by BNB can be reported under the terms of BNB’s *Discipline and Complaints Policy*.

PURPOSE

3. BNB is committed to providing an environment in which all Workers are treated with respect and dignity. Workplace harassment will not be tolerated from any person in the workplace.
4. This Policy is intended to ensure that BNB meets its obligations under the New Brunswick *Occupational Health and Safety Act* to prevent workplace harassment, including sexual harassment; and to provide the procedures that will be followed to address and manage complaints of workplace harassment.

DEFINITIONS

5. The following terms are defined in **Appendix A**:
 - Bullying
 - Harassment
 - Sexual Harassment
 - Sexual Violence
 - Sexual Assault
 - Worker
 - Workplace
 - Workplace Harassment
 - Workplace Violence
6. Importantly, reasonable action taken by BNB relating to the management and direction of Workers or the Workplace (e.g., scheduling or conducting an annual performance review) is not Workplace Harassment.

REPORTING SEXUAL VIOLENCE AND SEXUAL ASSAULT

7. Sexual Violence and Sexual Assault (defined in **Appendix A**) are serious crimes and should be immediately reported to the proper authorities, including BNB.
8. If you have experienced or witnessed Sexual Violence or Sexual Assault:
 - Go to a safe place.
 - Call your local police or go to the nearest police station. Emergency: 911.
 - Call your local sexual violence crisis centre: 506-454-0437 or [click here](#).
 - Access New Brunswick Victim Services Information: [Click here](#).
 - Report the experience to BNB (strongly recommended if the incident involved another BNB staff member)

RESPONSIBILITIES

9. Senior Management, in collaboration with the Health and Safety Committee, is required to prepare a Workplace Harassment policy under the *Occupational Health and Safety Act*. All workers are expected to read, understand and adhere to the policy.
10. Managers are responsible to take appropriate preventive or corrective action and to put a stop to any harassment they are aware of, whether or not a complaint is filed. Failure to take appropriate action may result in disciplinary measures being imposed on the manager as well as the offending person.
11. In addition, management's responsibility is to ensure all complaints or incidents of workplace harassment are investigated and dealt with in a fair, respectful and timely manner.
12. Management will also ensure that all Workers receive training on Workplace Harassment when they are hired and are retrained, at a minimum, of every four years after that. Proof of completion will be placed in each Worker's file.
13. All workers will be required to complete a Back Check once selected as the candidate of choice and all workers will be required to complete a new Back Check every three years after that.

PROCEDURES

Reporting Workplace Harassment

14. If a Worker feels that they are being harassed, the Worker should first advise the person harassing them to stop, if they feel comfortable doing so. If the Worker does not feel comfortable doing so, or if the harassment continues, the Worker is encouraged to report any incidents of Workplace Harassment to the appropriate person. Workers are not to be penalized or disciplined for reporting an incident or for participating in an investigation involving Workplace Harassment.

Where to File a Workplace Harassment Report

15. An incident or a complaint of Workplace Harassment should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a timely manner.

16. A Workplace Harassment incident or complaint must be reported directly to the Workplace Harassment Officer:

Name:

Email:

17. If the Workplace Harassment Officer is the alleged harasser, the Worker should report the complaint to the President of the Board of Directors, BNB:

Name:

Email:

18. All incidents or complaints of Workplace Harassment shall be kept confidential except to the extent necessary to protect Workers, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

How to File a Workplace Harassment Report

19. Workers may report incidents or complaints of harassment verbally or in writing. When submitting a written complaint, Workers are asked to use the Workplace Harassment Incident Report Form (**Appendix B**). When reporting verbally, the Workplace Harassment Officer along with the Worker will complete the Workplace Harassment Incident Report Form.

20. The report of the incident should include the following information:

- a. Name(s) and contact information of the Worker who has allegedly experienced harassment.
- b. Name(s) and contact information, if available, of the alleged harasser(s).
- c. Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known).
- d. Details of what happened including date(s), frequency and location(s) of the alleged incident(s).
- e. Any supporting documents the Worker may have that are relevant to the complaint (e.g., emails, texts, etc.).
- f. A list any documents that may be relevant to the complaint.

What Happens After Filing a Workplace Harassment Report

21. All incidents or complaints will be kept confidential except to the extent necessary to protect the Worker, to investigate the complaint or incident, to take corrective action, or otherwise as required by law.

22. In particular, the Workplace Harassment Officer may inform the CEO and/or the Board of Directors that a Workplace Harassment complaint has been filed and needs to be investigated. The Workplace Harassment Officer may recommend that the investigation be conducted by an outside third party and the Executive Director and/or Board of Directors may not unreasonably withhold funding for any outside third-party investigator.

23. The Workplace Harassment Officer is not required to reveal the name(s) of the Worker and alleged harasser(s), or details of the incident, at this stage of the process unless the safety of students or Workers may be at risk and/or if temporary action (e.g., a suspension of the alleged harasser(s) while an investigation takes place) is required.

BNB RESPONSE TO WORKPLACE HARASSMENT COMPLAINTS

Investigation

24. BNB will ensure that an investigation is conducted when it becomes aware of an incident of Workplace Harassment or receives a complaint of Workplace Harassment. If an Internal Investigation is not possible or appropriate, an external Investigator qualified to conduct a Workplace Harassment investigation and who has knowledge of the relevant Workplace Harassment laws will be retained to conduct the investigation.

25. The Workplace Harassment Officer will send written notice to the alleged harasser that an investigation of a report of Workplace Harassment under this Policy is being initiated and will provide the name of the Investigator. This notice will include the particulars of the incident reported and indicate that the alleged harasser will have an opportunity to respond to the allegations.

Timing of the Investigation

26. The investigation will be completed in a timely manner and generally within 60 days or less unless there are extenuating circumstances (i.e. illness, complex investigation) warranting a longer investigation.

Investigation Process

27. The Investigator will conduct the investigation in a manner befitting the Investigator's experience and recommendations with such matters, with the following guidelines:

- The Investigator will ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation.
- The Investigator will interview the Worker who allegedly experienced Workplace Harassment and the alleged harasser(s), if the alleged harasser is a Worker of BNB. If the alleged harasser is not a worker, the Investigator will make reasonable efforts to interview the alleged harasser.
- The alleged harasser(s) will be given the opportunity to respond to the specific allegations raised by the Worker.
- The Investigator will interview any relevant witnesses employed by BNB who may be identified by either the Worker who allegedly experienced the Workplace Harassment, the alleged harasser(s) or as necessary to conduct a thorough investigation. The Investigator will make reasonable efforts to interview any relevant witnesses who are not employed by BNB if there are any identified.
- The Investigator will collect and review any relevant documents.
- The Investigator will take appropriate notes and statements during interviews with the Worker

who allegedly experienced Workplace Harassment, the alleged harasser and any witnesses.

- The Investigator will provide the alleged harasser with a reasonable opportunity to respond in writing or orally to the allegations. If the response is oral, the Investigator should normally confirm the content of the response with the alleged harasser in writing. If they do not respond within a reasonable timeframe set by the Investigator, or chooses not to participate in the investigation, the Investigator may proceed in the absence of their response.
- The Investigator will prepare a written Investigator's Report summarizing the steps taken during the investigation, the complaint, the allegations of the Worker who allegedly experienced the workplace harassment, the response from the alleged harasser, the evidence of any witnesses, and the evidence gathered. The Investigator's Report will set out the findings of fact and come to a conclusion about whether or not, on a balance of probabilities, Workplace Harassment occurred.

Results of the Investigation

28. Within ten (10) business days of the investigation being completed, the Worker who allegedly experienced the workplace harassment and the alleged harasser, if he or she is a Worker of BNB, will be informed in writing of the results of the investigation, and optionally an executive summary, but they are not to be sent the full Investigator's Report.
29. The parties will also be informed of any corrective action taken or that will be taken by BNB to address Workplace Harassment.

Confidentiality

30. Information about complaints and incidents will be kept confidential to the extent possible. Information obtained about an incident or complaint of Workplace Harassment, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect Workers, to investigate the complaint or incident, or to take corrective action or otherwise as required by law.
31. While the investigation is on-going, the Worker who has allegedly experienced harassment, the alleged harasser(s) and any witnesses must not discuss the incident or complaint or the investigation with each other or other workers or witnesses unless necessary to obtain advice about their rights. The Investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation. All records of the investigation will be kept confidential.

Handling of Complaints

32. While the investigation is underway, the Workplace Harassment Officer will consider whether interim measures are necessary to minimize contact between the complainant and the accused harasser. Interim measures will be reasonable for the circumstances and may include granting time off, suspension, assigning different shifts, etc.

Disciplinary Action

33. Harassment by a Worker is a serious offence. If an accusation is substantiated, the harasser will be

subject to immediate disciplinary action, up to and including dismissal.

34. After receiving the results of the investigation from the Workplace Harassment Officer, the Executive Director and/or Board of Directors will consider the evidence, the nature of the harassment, whether physical contact was involved, whether the situation was isolated, and whether there was an abuse of power to determine what is the appropriate corrective action.

35. Disciplinary actions may include:

- Verbal or written apologies
- A letter of reprimand or suspension
- A referral to counselling
- Remedial training
- Schedule changes
- Termination of employment
- Referral to police or other legal authorities

UNSUBSTANTIATED COMPLAINTS AND RETALIATION

36. Intentionally accusing someone of harassment, known to be false, is a serious offence and may be subject to disciplinary action. BNB reserves the right to discipline those whose complaints are frivolous or vexatious.

37. Any interference with the conduct of an investigation, or retaliation against the Worker filing the complaint, the alleged harasser, or witness, may itself result in disciplinary action.

RECORD KEEPING

38. BNB will keep records of the investigation including:

- A copy of the complaint or details about the incident;
- A record of the investigation including notes;
- A copy of the Investigator's Report (if any);
- A summary of the results of the investigation that was provided to the Worker who allegedly experienced the Workplace Harassment and the alleged harasser, if a Worker of BNB; and
- A copy of any corrective action taken to address the complaint or incident of Workplace Harassment.

39. All records of the investigation will be kept confidential. Records will be kept indefinitely. If the investigation does not find evidence to support the complaint, no record will be kept in the file of the alleged harasser. When the investigation finds harassment occurred, the incident and the corrective action will be recorded in the harasser's personnel file.

Review

40. This Policy was last reviewed and approved by the BNB Board of Directors on June 4th, 2020.

APPENDIX A - DEFINITIONS

1. **Bullying** – Bullying occurs when an individual or a group of people, with more power, repeatedly and intentionally cause hurt or harm to another person or group of people who feel helpless to respond. Bullying can continue over time and is likely to continue if no action is taken. Bullying is not:
 - a) single episodes of social rejection or dislike
 - b) single episode acts of nastiness or spite
 - c) random acts of aggression or intimidation
 - d) mutual arguments, disagreements or fights

The above actions can cause great distress. However, they do not fit the definition of bullying, and they're not examples of bullying unless someone is deliberately and repeatedly doing them.

2. **Harassment** - A course of vexatious comment or conduct against an Individual or group, which is known or ought to reasonably be known to be unwelcome. Types of behaviour that constitute Harassment include, but are not limited to:
 - a) Written or verbal abuse, threats, or outbursts;
 - b) Persistent unwelcome remarks, jokes, comments, innuendo, or taunts;
 - c) Racial harassment, which is racial slurs, jokes, name calling, or insulting behaviour or terminology that reinforces stereotypes or discounts abilities because of racial or ethnic origin;
 - d) Leering or other suggestive or obscene gestures;
 - e) Condescending or patronizing behaviour which is intended to undermine self-esteem, diminish performance or adversely affect working conditions;
 - f) Practical jokes which endanger a person's safety, or may negatively affect performance;
 - g) Hazing, which is any form of conduct which exhibits any potentially humiliating, degrading, abusive, or dangerous activity expected of a junior-ranking individual by a more senior individual, which does not contribute to either individual's positive development, but is required to be accepted as part of a group, regardless of the junior-ranking individual's willingness to participate. This includes, but is not limited to, any activity, no matter how traditional or seemingly benign, that sets apart or alienates any group member based on class, number of years with the group, experience, or talent;
 - h) Unwanted physical contact including, but not limited to, touching, petting, pinching, or kissing;
 - i) Deliberately excluding or socially isolating a person from a group;
 - j) Physical or sexual assault;
 - k) Behaviours such as those described above that are not directed towards a specific person or group but have the same effect of creating a negative or hostile environment; and
 - l) Retaliation or threats of retaliation against a person who reports harassment to BNB.

3. **Sexual Harassment** - A course of vexatious comment or conduct against an Individual because of sex, sexual orientation, gender identify or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or 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 advance to the Individual and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. Types of behaviour that constitute Sexual Harassment include, but are not limited to:

- a) Sexist jokes;
- b) Threats, punishment, or denial of a benefit for refusing a sexual advance;
- c) Offering a benefit in exchange for a sexual favour;
- d) Demanding hugs;
- e) Bragging about sexual ability;
- f) Leering (persistent sexual staring);
- g) Seductive behaviour (giving inappropriate gifts, neck massages);
- h) Turning work discussions into personal sexual topics;
- i) Sexual assault;
- j) Display of sexually offensive material;
- k) Distributing sexually explicit messages such as pictures or video files;
- l) Sexually degrading words used to describe an Individual;
- m) Ranking a person's beauty or desirability;
- n) Unwelcome inquiries into or comments about an Individual's gender identity or physical appearance;
- o) Inquiries or comments about an individual's sex life;
- p) Persistent, unwanted attention after a consensual relationship ends;
- q) Persistent sexual flirtations, advances, or propositions; and
- r) Persistent unwanted contact.

4. **Sexual Violence** - A broad term that describes any violence, physical and psychological, carried out through sexual means or by targeting sexuality. Sexual violence is any kind of contact without mutual consent. This violence takes different forms including sexual abuse and sexual assault. Anyone, regardless of age, gender identity, or sexual orientation, can be a victim of sexual violence. Sexual violence can profoundly impact the physical and mental well-being of an individual.

5. **Sexual Assault** - A criminal offence under the *Criminal Code* of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the integrity of the victim and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to.

6. **Worker** – a person who performs work or supplies services for monetary compensation or school credit

7. **Workplace** - Any place where business or work-related activities are conducted. Workplaces include but are not limited to, the BNB office, work-related social functions, work assignments outside BNB's offices, work-related travel, work-related conferences or training sessions, and competition venues and hotels.

8. **Workplace Harassment** – Vexatious comment or conduct against a worker in a Workplace that is known or ought reasonably to be known to be unwelcome. Workplace Harassment should not be confused with legitimate, reasonable management actions that are part of the normal work/training function, including measures to correct performance deficiencies, such as placing someone on a performance improvement plan, or imposing discipline for workplace infractions. Types of behaviour that constitute Workplace Harassment include, but are not limited to:

- a) Bullying;
- b) Workplace pranks, vandalism, bullying or hazing;
- c) Repeated offensive or intimidating phone calls or emails;
- d) Inappropriate sexual touching, advances, suggestions or requests;
- e) Displaying or circulating offensive pictures, photographs or materials in printed or electronic form;
- f) Psychological abuse;
- g) Excluding or ignoring someone, including persistent exclusion of a particular person from work-related social gatherings;
- h) Deliberately withholding information that would enable a person to do his or her job, perform or train;
- i) Sabotaging someone else's work or performance;
- j) Gossiping or spreading malicious rumours;
- k) Intimidating words or conduct (offensive jokes or innuendos); and
- l) Words or actions which are known or should reasonably be known to be offensive, embarrassing, humiliating, or demeaning.

9. Workplace Violence – The use of or threat of physical force by a person against a worker in a Workplace that causes or could cause physical injury to the worker; an attempt to exercise physical force against a worker in a Workplace that could cause physical injury to the worker; or 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. Types of behaviour that constitute Workplace Violence include, but are not limited to:

- a) Verbal or written threats to attack;
- b) Sending to or leaving threatening notes or emails;
- c) Physically threatening behaviour such as shaking a fist at someone, finger pointing, destroying property, or throwing objects;
- d) Wielding a weapon in a Workplace;
- e) Hitting, pinching or unwanted touching which is not accidental;
- f) Dangerous or threatening horseplay;
- g) Physical restraint or confinement;
- h) Blatant or intentional disregard for the safety or wellbeing of others;
- i) Blocking normal movement or physical interference, with or without the use of equipment;
- j) Sexual violence; and
- k) Any attempt to engage in the type of conduct outlined above.

APPENDIX B - WORKPLACE HARASSMENT COMPLAINT FORM

Date:

Your name, position, and contact information:

Have you been harassed? _____ OR Did you witness what you are about to report? _____

Name(s) of alleged harasser(s), and position and contact information if available:

Details of the complaint of workplace harassment:

Please describe in as much detail as possible the harassment incident(s), including: (a) the names of the parties involved; (b) any witnesses to the incident(s); (c) the location, date and time of the incident(s); (d) details about the incident(s) (behaviour and/or words used); (e) any additional details. Attach additional pages if required.

Relevant documents/evidence:

Attach any supporting documents, such as emails, handwritten notes, or photographs. Physical evidence, such as vandalized personal belongings, can also be submitted. If you are not able to attach documents and they are relevant to your complaint, please list the documents below. If someone else has relevant documents, please note that below.

Signature of Complainant: _____

Date complaint received by Harassment Officer or President of the Board: _____