



**NBTF Policies / Politiques de la FENB**  
**Relationships / Relations**  
**Respectful Workplace / Milieu de travail respectueux**

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<b>R-5: <u>Respectful Workplace</u></b> <b>(Board, 2021-02-10)</b>	<b>R-5: <u>Milieu de travail respectueux</u></b> <b>(CA, 2021-02-10)</b>
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# Respectful Workplace Policy

## New Brunswick Teachers' Federation

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### INTRODUCTION

This policy has been developed to reflect our values and because we want your working experience at New Brunswick Teacher's Federation (NBTF) to be positive and rewarding. We are committed to creating a respectful workplace free from intimidation, abuse of power, and harassment.

The values of NBTF uphold the practice of respect, fairness and courtesy, and the importance of demonstrating human dignity within professional relationships. These values are also core components of a fair, supportive and ethical workplace as envisaged by the NBTF.

The organizational culture has an influence on how colleagues interact with one another and should therefore promote awareness and practice of good communication and effective interpersonal skills. The ongoing effort to demonstrate respect is everyone's personal responsibility.

There will be occasional instances of conduct that are incompatible with NBTF's values where a formal complaint is necessary, as per this policy. That said, where a matter arises and if deemed appropriate, NBTF will explore different means of conflict resolution before proceeding with the formal procedure provided in this policy, but ultimately should there be no possible alternatives, the complainant or the NBTF may insist on proceeding with the formal complaint process.

Every employee is entitled to a workplace free of prohibited behaviours, as defined herein, and the NBTF is committed to uphold that principle and to act appropriately and accordingly, as established by this policy. Furthermore, this policy complies with and exceeds the requirements for a code of practice for prevention of harassment under Regulation 91-191 of the *Occupational Health and Safety Act*.

### DEFINITIONS

**“Workplace”** includes the location of any act or interaction having a bearing on relationships at work or on the work environment, regardless of the actual location of the act or interaction.

**“Employee”** includes any full-time, part-time, casual, temporary, seasonal or contract employee, as well as volunteers.



**“Complaint”** means a written complaint from an individual, using the form provided in Appendix or a letter, containing the specific facts of the event or events, the date that it happened, the witness or witnesses if any, who is the respondent, and the prohibited behaviours.

**“Complainant”** means the person making a complaint under this policy.

**“Respondent”** means a person about whose actions a complaint is made under this policy.

**“Prohibited behaviours”** means, abuse of authority, harassment, poisoned work environment, sexual harassment, and workplace sexual harassment as defined in this policy.

**“Abuse of authority”** is “where an individual improperly uses the power and authority inherent in a position to endanger a person’s job, undermine the performance of that job, threaten the person’s economic livelihood, or in any way interfere with or influence a person’s career. It is the exercise of authority in a manner which serves no legitimate work purpose and ought reasonably to be known to be inappropriate. Examples of abuse of authority include, and are not limited to: misuse of power, intimidation, threats, blackmail or coercion, inappropriate use of power (with a subordinate) for sexual purposes.”

**“Harassment”**, in a place of employment, means any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome, including bullying or any other conduct, comment or display made on either a one-time or repeated basis that threatens the health or safety of an employee, but does not include reasonable conduct of an employer in respect of the management and direction of employees at the place of employment. Examples of harassment include but are not limited to:

- a) Offensive or intimidating comments or jokes, such as shouting or cursing at others, humiliating an employee in front of co-workers, making degrading comments or gestures, or teasing and belittling behaviour;
- b) Bullying or aggressive behaviour;
- c) Displaying or circulating offensive pictures or materials;
- d) Inappropriate staring;
- e) Isolating or making fun of a worker because of gender identity or other personal characteristics;
- f) Spreading malicious rumours or gossip;
- g) Threats, insults, or written or verbal abuse, including persistent vexatious comments or communications;
- h) Undermining or deliberately impeding a person’s work;
- i) Withholding necessary information or purposefully giving the wrong information;
- j) Practical jokes that embarrass or demean others;
- k) Tampering with or vandalism of personal property, work equipment, or workplace;
- l) Shunning, ignoring, or isolating someone.



**“Poisoned work environment”** refers to a workplace in which comments or behaviours create a hostile or offensive environment for individuals or groups and negatively affects communication and productivity. Comments and behaviours under poisoned work environment (e.g., yelling at no one in particular; pounding a desk in frustration) are not necessarily directed at anyone in particular.

However, behaviours not directed at any one identifiable person becomes harassment only when it relates to a prohibited ground of discrimination (such as displaying sexually explicit material or telling racist or religious jokes).

**“Sexual harassment”** is unwanted comment or conduct based on sex that is known or ought reasonably to be known to be unwanted. Sexual harassment can include but are not limited to:

- a) displaying or distributing photographs or material of a sexual nature;
- b) engaging in sexually suggestive conversation or jokes;
- c) making sexual flirtations or advances;
- d) leering;
- e) making sexually suggestive contact or gestures; and
- f) demanding sexual favours in exchange for advantages or privileges in employment.

**“Workplace sexual harassment”** is unwelcomed solicitation or advances from a manager, supervisor or other person who has the power to reward and punish the worker.

## **APPLICATION**

- 1 (1) This policy applies to all employees, members of the Executive Committee, members of the Board of Directors, and committee members of the NBTF while engaged in any activity related to their employment or their role on the Committee or the Board they are acting on.
- 1 (2) Every person at NBTF who has control or direction over the work of others is responsible for adherence to this policy in creating and maintaining a respectful workplace free from the prohibited behaviours.

## **PROHIBITED BEHAVIOURS**

- 2 (1) Every employee at NBTF is entitled to a respectful workplace free from the prohibited behaviours as defined in this policy.
- 2 (2) Prohibited behaviours constitute disciplinary infraction that can lead up to and including dismissal.



- 2 (3) If a complaint is filed under this policy against the actions of someone who is a committee member or a member of the Executive Committee or the Board of Directors, but is not part of the staff, the consequences, if the complaint is founded, may be of a different nature but can lead up to removing that person from the committee, the Executive Committee or the Board of Directors.
- 2 (4) Not all interpersonal conflict constitutes a prohibited behaviour. It is recognized that some conflict is inevitable in the workplace and can arise from a number of situations including communication style differences, friction while sharing a workspace, conflicting goals, and unclear roles. Employees are expected to make a sincere effort to resolve any such disagreements in a respectful manner.

### **MANAGERIAL FUNCTIONS**

- 3 (1) Interactions between managers and subordinates may be especially sensitive because of the power differential they embody. Exercising managerial functions such as assigning and appraising work, investigating potential problems, or applying discipline is not a prohibited behaviour as long as the manager is carrying out the managerial duty in good faith – in other words, the manager is using their power or authority for the purpose for which it was given.
- 3 (2) Although this is not an exhaustive list, the following managerial actions are not prohibited behaviours nor do they constitute a poisoned work environment when carried out in good faith:
  - a) Assigning difficult or distasteful work;
  - b) Investigating possible misconduct or unjustified absence;
  - c) Requiring medical certification of a disability;
  - d) Considering or issuing discipline;
  - e) Coaching or training;
  - f) Counselling;
  - g) Conducting performance reviews.

### **INFORMAL PROCEDURE**

- 4 (1) Any matters covered by this policy should first be discussed with the Executive Director or, if he or she is involved, one of the Co-Presidents, by a prospective complainant prior to a written complaint.
- 4 (2) If appropriate, prior to a written complaint, possible means of voluntary resolutions such as coaching, guided conversations, counselling, facilitation, and mediation with an internal or external mediator as judged appropriate should be explored with the complainant.



- 4 (3) In exploring possible means of voluntary resolutions, the complainant must be advised that an informal procedure requires the voluntary participation of both parties (complainant and respondent) with the view of a voluntary resolution to the satisfaction of both without determining fault or application of discipline. Specifically, the respondent must be advised of the concerns and be part of the potential resolution.

If the voluntary procedure is appropriate, the Executive Director (or Co-President when appropriate) should consider advice from legal counsel as to how to proceed. For example, it would not be uncommon for individuals to be asked if they want to participate in facilitated discussions with persons trained in resolving disputes or professional mediators.

- 4 (4) Unless advised by both parties that the matter is resolved, the Executive Director (or Co-President when appropriate) must advise the complainant that they may proceed with the formal procedure as provided in the next section.

## **FORMAL PROCEDURE**

- 5 (1) This section applies when a written complaint is received by the Executive Director or if involving the Executive Director, the Co-President.
- 5 (2) Once a complaint is received the Executive Director (or Co-President when appropriate) will obtain a legal opinion within seven workdays to determine both if and how the complaint may proceed, including the assistance of an external investigator or otherwise.
- 5 (3) If a complaint proceeds it will be investigated for a determination of if the conduct complained of occurred and if it constitutes prohibited behaviours as defined in this policy.

### **5.1. During the Investigation**

- 5.1(1) It may be in the best interest of all parties for them to be physically and/or hierarchically removed from one another for the period of the investigation. If there is no reporting relationship, the manager shall determine if the parties should be physically removed from one another for the period of the investigation. The manager shall consider operational requirements, health and safety of individuals and other employment factors in the decision to reassign or relocate either party.
- 5.1(2) Should the manager decide to send the respondent home for the duration of the investigation, he or she will be reassigned to home with pay.



5.1(3) Both complainant and respondent may be accompanied by a person of their choosing in an interview. However, questions will be addressed to the complainant and the respondent.

## **5.2. Limitation Period**

5.2(1) A complaint of prohibited behaviour must be filed within twelve months of the last event of alleged prohibited behaviour leading to the complaint unless there are extenuating circumstances. The information provided must be as precise and concise as possible.

5.2(2) Allegations can go back further in time to describe incidents or events if the complainant demonstrates that they are directly related to the last event of alleged prohibited behaviour that led to the complaint. This is especially necessary in cases where the complainant establishes a pattern of events.

5.2(3) If at any time a legal process has been filed and the subject matter is the same as, similar in nature, or related to the complaint, the NBTF's Executive Committee may suspend the investigation.

## **5.3. Protection**

5.3(1) In its commitment to creating a respectful workplace, the NBTF commits to protect the complainant against any discriminatory and retaliation action taken by anyone in the workplace.

5.3(2) The NBTF considers reprisals towards any employee who complains of prohibited behaviour to be a very serious offence that can constitute a form of harassment in its own right.

5.3(3) It is a serious violation of this policy to make a knowingly false or malicious accusation. The complainant understands that any frivolous or vexatious complaint under this policy is a form of harassment and the normal protection cannot extend to persons making a maliciously unfounded accusation.

## **5.4. Founded Complaint**

5.4(1) The complainant and Respondent will be informed in writing if a complaint is founded or not. If the complaint is founded the Employer will determine appropriate corrective action.



## **LANGUAGE OF THE REPORT**

- 6 (1) The external investigator's opinion, preliminary report or official report of the investigation will be in the language of choice of the manager to whom the complaint was given.
- 6 (2) The written statement of allegations given to the respondent will be in the language of his or her choosing.
- 6 (3) The written version of the facts, whether whole or partial, given to the complainant will be in the language of his or her choosing.

## **CONFIDENTIALITY AND PROTECTION**

- 7 (1) The NBTF will endeavour to keep information as confidential as possible. All parties should keep certain things in mind:
  - a) Once NBTF learns of a possible prohibited behaviour contrary to this policy, it may have a positive legal obligation to address the matter, regardless of an employee's wishes.
  - b) Fairness demands that the respondent have an opportunity to read the allegations and respond to them unless doing so would put someone in danger.
  - c) There may be a need to share information with legal or other advisors to process a complaint.

### **7.1 Record Keeping**

- 7.1 (1) Records of the complaint or incident should be sealed for at least five years<sup>1</sup>, and should not be disclosed to anyone, unless necessary to investigate an incident or a complaint or to take corrective action or if required by law.
- 7.1 (2) A copy of the investigation report does not need to be provided to the complainant or the respondent. However, the respondent should be able to review the full report.

## **TRAINING AND POSTING**

- 8 (1) This policy must be promoted every year to all employees and elected members of the NBTF.

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<sup>1</sup> The respondent can request to the Executive Committee to have the documentation destroyed after a five-year period.



- 8 (2) Training<sup>2</sup> on a respectful workplace must be offered to all employees and elected members of the Executive Committees and Board of Directors.
- 8 (3) This policy must be prominently posted in the workplace or made readily available to all employees, and elected members of the Executive Committees and Board of Directors.

### **REVIEW AND UPDATE**

- 9 (1) This policy should be revised annually and reviewed by the NBTF Executive Committee. Any change to the policy has to be approved by the NBTF Board of Directors.
- 9 (2) The Joint Internal Committee will review the policy and make the necessary updates to take to the Board of Directors for approval.

### **LEGISLATION**

- 10 (1) Nothing in this policy limits the application of all applicable laws of New Brunswick, such as the *Human Rights Act*, and of Canada, such as the *Criminal Code*. Rather this policy aims at stopping the prohibited behaviours contained in this policy that may occur in the workplace that is not covered by these Acts.

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<sup>2</sup> Training will be available online.



## COMPLAINT FORM

### 1. Complainant's information

Name:	
Work phone number:	
Home or cell number:	
Address:	

### 2. Respondent(s)' information, position(s) and contact information (if known):

Name(s):	
Work phone number(s):	
Home or cell number(s):	
Address:	

### 3. Witness(es)' information

Name(s):	
Work phone number(s):	
Home or cell number(s):	
Address:	



**4. What is the allegation? In other words, what did the respondent do that is contrary to this policy?**

Allegation:

\_\_\_\_\_

Description:

Date(s):	_____
Time:	_____
Frequency:	_____
Location:	_____

**5. Other allegations? See 6.2 for Limitation Period. (Please attach additional pages if needed.)**

Allegation:

\_\_\_\_\_

Description:

Date(s):	_____
Time:	_____
Frequency:	_____
Location:	_____

**6. Any other relevant documents (statements, emails, etc.):**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature:	_____
Date:	_____



**NBTF Policies on Relationships / Politiques sur les relations  
Respectful Workplace / Milieu de travail respectueux  
APPENDIX – COMPLAINT FORM**

