

GENERAL POLICY
KENT REGIONAL SERVICE COMMISSION
17-02
RESPECTFUL WORKPLACE POLICY

Policy Statement

The Kent Regional Service Commission supports a respectful workplace and will not accept any form of harassment in the workplace. It can be an expression of abuse of formal and informal power, authority, or control and is coercive in nature. It is offensive, degrading and threatening. It negatively affects the ability of all employees to learn and work productively as well as their self-esteem and sense of well-being.

1. As an employer, the Kent Regional Service Commission is committed to providing a work environment in which all individuals are treated with respect and dignity. It is the employer's responsibility to act with due diligence to prevent and eliminate harassment in the workplace and to provide a timely response to all complaints. Management are responsible to maintain and create a respectful workplace.
2. Prevention and reporting of disrespectful conduct is the responsibility of all employees. Any person who believes that an employee has experienced, or is experiencing, workplace harassment, or retaliation for having brought forward a complaint, is encouraged to notify his/her supervisor, or the Executive Director
3. Management is 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.
4. Harassment in the workplace will **not be tolerated** and management **must** take appropriate action to protect their employees and others in the workplace. Harassment in the workplace constitutes a disciplinary infraction and shall be dealt with appropriately.
5. Members of the general public who exhibit inappropriate conduct towards an employee may be denied access to Kent Regional Service Commission services. The employees have the authority to refuse to speak to a member of the public or a client if this individual is acting in an inappropriate conduct.
6. The abuse of one's authority or position, to intimidate, coerce, or harass is forbidden. All of management is responsible for their employees' work environment.

7. Retaliation in any form, against employees or members of the public who complain of harassment is strictly prohibited. This includes ostracism of the complainant, or limiting a complainant's ability to compete fairly for promotions, preferred assignments, or other employment-related opportunities.
8. This policy is not intended to limit or constrain the employer's right to manage. Performance reviews, work evaluation and disciplinary measures taken by the employer for any valid reason do not constitute harassment in the workplace.

Objectives

The purpose of this Respectful Workplace Policy is:

1. To maintain a working environment that is free from all types of harassment.
2. To inform all employees of the Kent Regional Service Commission that workplace harassment is strictly prohibited.
3. To identify the types of behavior that may be considered offensive.
4. To establish a process for receiving complaints of harassment and to provide a mechanism to deal with those complaints effectively.

Definitions

Employee:

For purposes of this policy, the term "Employee" means all unionized and non-unionized employees, as well as elected officials, contractors, citizen members of committees, and volunteers acting on behalf of the Kent Regional Service Commission.

Harassment:

Harassment means any improper behavior by any employee or member of the public that is directed towards any employee or group of employees, or any improper behavior by an employee that is directed towards a member of the public, and which a person knew or ought reasonably to have known to be unwelcome.

For the purposes of this policy, harassment in the workplace includes personal and sexual harassment, poisoned work environment, discrimination and abuse of authority.

1. Personal Harassment

Personal harassment includes, but is not limited to:

Verbal Harassment: demeaning comments directed at an individual, or used in reference about an individual, which would reasonably undermine that individual in the workplace and includes stereotypes, name-calling, insults, threats, slurs; crude, degrading, suggestive, or unwelcome remarks; offensive jokes, innuendoes, or profanities. Verbal harassment also includes verbal intimidation including hostile voice tones which would reasonably result in intimidation of an employee or member of the public.

Physical Harassment: unwelcome physical behavior including threatening or rude gestures; physical intimidation; coercion or assault, insulting actions, or practical jokes based on any of the protected grounds of the *NB Human Rights Act* or for any other reason which would reasonably cause offence.

Written or Graphic Materials: unwelcome written material in any media form including social media; graffiti; unwanted notes or letters; displaying or distributing derogatory or offensive materials, pictures, jokes or cartoons which portray a person's personal or physical attributes in a negative or humiliating manner.

Avoidance or Exclusion of any individual, or group of individuals, which could reasonably be interpreted as shunning or ostracism as a result of that individual's beliefs, personal attributes, social condition, or because that person has made a complaint of harassment, or is a witness to an event which is the subject of a formal complaint of harassment.

2. Sexual Harassment

Sexual harassment is a particularly objectionable conduct or comment which cannot be tolerated. Sexual harassment means any conduct, comment, gesture, or contact of a sexual nature that might reasonably be expected to cause offence or humiliation; or that is a condition of a sexual nature on employment, an opportunity for training or promotion, receipt of services or a contract.

Examples of behavior that can constitute sexual harassment include, and are not limited to:

- a. unwanted touching, patting, pinching, hugging, brushing up against
- b. sexual assault
- c. inquiries or comments about a person's sex life
- d. telephone calls with sexual overtones
- e. gender or gender expression-based insults or jokes causing embarrassment or humiliation
- f. repeated unwanted social or sexual invitations
- g. inappropriate or unwelcome focus/comments on a person's physical attributes or appearance
- h. degrading remarks about either sex
- i. leering
- j. unfair evaluations or reprimands, reduced working hours, overwork, dismissals, discipline or refusal to hire, when they are in retaliation for refusing to submit to sexual harassment.

3. Poisoned Work Environment

A poisoned work environment is characterized by any activity or behavior, not necessarily directed at anyone in particular, that creates a hostile or offensive workplace. A poisoned work environment can exist even if employees agree to participate in demeaning behavior or voice no objections.

Examples of a poisoned work environment include, but are not limited to: graffiti, sexual, racial or religious insults or jokes, abusive treatment of an employee, and the display of pornographic or other offensive material.

4. Abuse of Authority

Harassment also includes abuse of authority where an individual improperly uses power and authority inherent in a position to endanger a person's job, undermine the performance of that job, threaten a person's economic livelihood, or in any way interfere with or influence a person's career.

Examples of abuse of authority include but are not limited to such acts or misuse of power as intimidation, threats, blackmail or coercion.

5. Workplace Defined

The workplace includes but is not limited to the physical work site, washrooms, cafeterias, training sessions, business travel, conferences, work-related social gatherings, locker rooms and vehicles.

It also includes any place where actions of an employee, whether on duty or not, will have such serious repercussions on the work environment as to seriously affect relationships between employees. If the conduct creates a connection to the workplace, it may be subject to examination by the employer.

6. Mediation

Mediation involves an impartial third party who will meet with both parties together in an attempt to find a resolution to the complaint.

7. Conciliation

In conciliation, an impartial third party meets separately with the complainant and the respondent to resolve the complaint.

Procedure

1. Informal Complaint - Mediation or Conciliation

- a. Often an individual is not aware that their behavior is offensive or that it causes discomfort to others. An effective way to end the problem of harassment in the workplace is to communicate concerns directly by telling the person that the behavior is unwelcome and must stop. An employee who believes they have been disrespected will document all instances including time, date, place and what was said to whom. (See Schedule 1)

b. If an employee refuses to serve a member of the public or a client, he has to fill Schedule 1 and give it to his / her supervisor. In the case this member of the public or client communicates with the Board of Directors of the Kent Regional Service Commission because he was refused service, the management will be able to explain the reason why the employee refused to serve the member of the public or client. The Board of Directors, through the Executive Director or its legal advisor will address the request of the member of the public or client by written correspondence only. The affected employee will not have to communicate with that member of the public or client.

c. A person may also request the assistance of his or her manager, or other appropriate person in the informal resolution of a workplace harassment complaint. This approach may include a mediation session or if requested by the complainant, a conciliation process to assist the parties in voluntarily reaching an acceptable solution. It is the employer's responsibility to ensure all parties involved have been informed of their rights and responsibilities.

d. If the informal complaint procedure is not successful, the departmental contact shall recommend further action to resolve the situation.

2. Formal Complaint

a. A person may choose to file a formal complaint either as a first step or if the informal complaint process was not successful. The employer is committed to responding to all complaints; however, if the complainant(s) wish to file a formal complaint, they must do so within one year of the most recent alleged incident.

b. A formal complaint must be written and signed. It should give an accurate account of the incident or incidents of harassment including times, places and parties involved. When completed, the complaint can be submitted to the following: complainant's Supervisor, or the Executive Director. In the event that a formal complaint is filed against the Executive Director a copy of the complaint is to be forwarded to the Chairperson and the Board of Directors.

c. The Executive Director or an impartial 3rd party will determine the need for an investigation. Should an investigation be necessary, the Executive Director shall appoint an impartial investigator to insure the complaint is investigated in a confidential and expeditious manner.

- d. The person against whom a complaint has been filed shall be informed of the complaint, presented with a written statement of allegations and afforded an opportunity to respond. The employer shall maintain the confidentiality of the complainant insofar as possible.
- e. When there is a direct reporting relationship between the complainant and the person against whom a complaint has been lodged, it may be in the best interest of all parties for them to be physically and hierarchically removed from one another for the period of the investigation. If there is no reporting relationship, the employer shall determine if the parties should be physically removed from one another for the period of the investigation.
- f. The investigator shall report the findings and recommendations to the Executive Director or designate. In instances of founded complaints, the Executive Director shall take appropriate disciplinary action up to and including dismissal. Under no circumstances shall this remedial action, adversely affect or impact the complainant's employment.
- h. If the complaint is not founded but through the course of investigation certain workplace problems are identified, the Executive Director may wish to take appropriate action to reestablish a healthy work environment.
- j. A complaint made in bad faith under this policy or that is malicious or vexatious, as determined by the investigation, shall be subject to appropriate disciplinary action.

Other Options

1. Complaints to the New Brunswick Human Rights Commission

New Brunswick Human Rights Act complaints should normally be filed within one year from the time the harassment occurred. Complaints are investigated by the New Brunswick Human Rights Commission. For more information, call the New Brunswick Human Rights Commission at 453-2301. An employee or member of the public has the right to file a complaint with the Human Rights Commission at any time.

2. Complaints Under the Criminal Code

Sexual and other forms of assault are covered under the Criminal Code. In these instances, the police can be asked to investigate. Sexual and other forms of assault are serious criminal offenses that should be reported to the police.

Rights and Responsibilities

1. A Shared Responsibility

While management and employees share responsibility for understanding and preventing harassment in the workplace, it is important to recognize that, under law, managers carry more responsibility than other employees. When a manager receives a verbal or written complaint from an employee who alleges being subjected to behaviors considered to be inappropriate, the manager, in consultation with the employee must develop and document an action plan to assist the employee.

2. Management

Those who have authority to prevent or discourage harassment may be held accountable for failing to do so. This accountability extends to anyone in a management or supervisory position. Employers are responsible for management and supervisory actions (or inactions). The employer may share liability with managers and others in founded complaints. It is therefore crucial that management take all complaints of harassment or inappropriate behavior seriously, develop action plans for dealing with the allegation and document all discussion and action taken on each individual matter in the case of both formal and informal complaints.

3. Complainant(s)

An employee has the right to file a complaint and to obtain a review of his or her complaint without fear of retaliation, through the procedure outlined in this policy.

An employee may be accompanied by a person of the employee's choice during any meeting dealing with the complaint or the resolving of the complaint.

It is the responsibility of the complainant(s):

- a. Employees are encouraged to make the feelings of harassment known to the respondent immediately by:
 - i. Advising the respondent that the behavior is not welcome, is offensive and must cease immediately.
 - ii. If circumstances are such that advising the respondent in person is uncomfortable or threatening, the complainant may discuss the matter with his/her manager and, the Executive Director.
- b. If this is unsuccessful or if circumstances make it difficult to take that measure, to immediately file a complaint following the outlined procedure; and
- c. Co-operate fully with all stages of the mediation, conciliation, and/or investigation process.
- d. Whenever possible, employees should maintain a record of times, dates, witnesses and the nature of the behavior for future reference.

4. Person Against Whom a Complaint Has Been Lodged

Persons against whom a complaint has been lodged are entitled:

- a. to be informed that a complaint has been filed;
- b. to be presented with a written statement of allegations and to be afforded an opportunity to respond to them;
- c. Have the right to meet with the Executive Director contact to discuss the options to resolve the complaint. A respondent to the complaint may be accompanied by a person of the employee's choice during any meeting with the Executive Director and/or the investigator and at any subsequent interviews that the parties would attend to resolve the issue.
- d. Co-operate fully with all stages of the mediation, conciliation, and/or investigation process.

It is the responsibility of the person against whom a complaint has been lodged to cooperate with the investigation.

5. Witnesses

Employees are obligated to meet with the investigator and to cooperate with all those responsible for the investigation of the complaint. No person shall be subject to retaliation because he or she has participated as a witness.

Employees are obliged to maintain confidentiality with respect to the investigation.

6. Investigator(s)

The investigator shall:

- a. Ensure the person against whom a complaint has been lodged has received a written statement of the allegations;
- b. Ensure all parties involved have been informed of their rights and responsibilities;
- c. Interview the parties concerned and any witnesses;
- d. Collect all pertinent evidence;
- e. Use a mediation or conciliation process where appropriate;
- f. Prepare a report; and
- g. Ensure the investigation is completed in a timely fashion taking into account particular circumstances (generally up to 3 months).

0809.07 Withdrawal of Complaint:

It is the right of the complainant, if so desired, to withdraw the allegations of harassment or discrimination, made in good faith, without resolution, as long as:

- a. The decision was made without coercion.
- b. The complainant understands that, where reasonable prima facie evidence of harassment or discrimination exists, the Executive Director may exercise the option to complete the investigation, and remedy the situation in order to ensure due diligence in identifying and stopping harassment or discrimination in the workplace.
- c. If the complainant wishes to withdraw a complaint but the respondent insists an investigation proceed for the purpose of establishing that no harassment occurred, an investigation shall proceed.

SCHEDULE 1
INAPPROPRIATE BEHAVIOUR REPORT

Name of the employee : _____

Name of the individual who acted inappropriately: _____

Phone number of the individual who acted inappropriately : _____

Community where the individual who acted inappropriately lives: _____

Time of the incident : _____

Date of the incident : _____

Location of the incident : _____

Topic that provoked the incident:

Description of the incident:

Actions taken by the employee towards the situation

