

IBEW LOCAL 37 HARASSMENT POLICY

Introduction:

The IBEW Local 37 is committed to providing an environment in which all individuals are treated with respect and dignity. Each individual has the right to an atmosphere that promotes equal opportunities and prohibits discriminatory practices.

The IBEW Local 37 will maintain an environment that is free from all forms of harassment and will provide for prompt resolution when situations of harassment do occur. Members against whom a complaint of workplace harassment has been substantiated may be severely disciplined, up to and including the laying of charges under the IBEW constitution. This policy will be applied irrespective of seniority.

Inquiries under this policy should be addressed to the Local Office at 455-0037. Notwithstanding the existence of this policy employees have the right to seek assistance from the NB Human Rights Commission, even when steps are being taken under this policy. Complainants may also seek assistance from the 1st District Office, the International Office or from an attorney.

This policy is not intended to constrain social interactions between people in the Union.

This policy applies to members of IBEW Local 37, persons employed by the IBEW Local 37, contracted by the IBEW local 37 or associated with the IBEW Local 37. The scope of the policy is to deal with behaviours during Union activities, or behaviours that occur as a result of membership even though they take place at other sites. This includes, but is not limited to:

- at the union office;
- outside the union office, but union-related; at union-related social functions;
- in the course of union work assignments outside the union office;
- at union-related meetings;
- at union-related conferences or training sessions;
- over the telephone; or,
- during union-related travel.

In circumstances where others with whom the IBEW Local 37 conducts business have subjected a member to harassment, the IBEW Local 37 acknowledges its responsibility to support and

assist the person subjected to such harassment and will pursue resolution to the fullest extent possible.

Purpose:

The purposes of this policy are:

- 1) to maintain an environment that is free from all forms of harassment and provide for the prompt resolution of situations when harassment does occur;
- 2) to inform all members/employees of the fact that harassment in the workplace is a form of discrimination and is an offence under the law;
- 3) to set out the types of behaviour that may be considered offensive;
- 4) to establish a mechanism for receiving complaints of harassment and to provide a procedure by which the IBEW Local 37 will deal with these complaints; and,
- 5) to provide guidelines for the steps a responsible Union can take towards maintaining an environment in which members treat each other with mutual respect.

To ensure that the IBEW Local 37 is in compliance with its statutory responsibilities and its procedures are congruent with the NB Human Rights Act.

Policy:

Definitions:

For the purpose of the IBEW Local 37 policy, retaliation against an individual for any of the following reasons will be treated as harassment:

- for having invoked this policy; or
- for having co-operated with any investigation under this policy; or
- for having been associated with a person who has invoked this policy or participated in those procedures.

For the purposes of this policy, the following definitions will be used:

Harassment is any improper behaviour directed at and/or offensive to any member/employee as described and prohibited under the provisions against discrimination in the New Brunswick Human Rights Act. The standard for determining harassment is based on what a person knew or reasonably ought to have known would be inappropriate and unwelcome. It comprises objectionable conduct, comment or display made on either a one-time or continuous basis that

demeans, belittles or causes personal humiliation or embarrassment to an employee.

Sexual harassment is any conduct, comment, gesture or contact of a sexual nature that is likely to cause offence or humiliation to a member/employee. It includes behaviours that might reasonably be perceived by a member/employee as placing a condition of a sexual nature on membership/employment for any opportunity for training, representation or promotion. It also includes discriminatory treatment of women because of pregnancy or childbirth.

Sexual harassment can occur on a one-time basis or in a series of incidents. The standard for a determination of sexual harassment is that the behaviour interferes with a person's work performance, endangers continued employment, or undermines a person's sense of personal dignity.

This includes, but is not limited to:

- Sexist jokes causing embarrassment or offence, told or carried out after the joker has been advised that they are embarrassing or offensive, or that are by their nature clearly embarrassing or offensive
- Leering
- The display of sexually offensive material or the use of sexually degrading words to describe a person
- Derogatory or degrading remarks directed towards members of one sex or one sexual orientation
- Sexually suggestive or obscene comments or gestures
- Unwelcome inquiries or comments about a person's sex life
- Unwelcome sexual flirtations, advances, propositions
- Persistent unwanted contact or attention after the end of a consensual relationship
- Requests for sexual favours
- Unwanted touching
- Verbal abuse or threats
- Sexual assault

Sexual harassment most commonly occurs in the form of behaviour by men towards women; however sexual harassment can also occur between men, between women, or as behaviour by women towards men.

Personal harassment is objectionable or offensive behaviour that is directed at an individual and is known or ought reasonably to be known to be unwelcome. It includes objectionable conduct,

comment or display that demeans, belittles or causes personal humiliation or embarrassment. Personal harassment can occur on a one-time or continuous basis.

Examples of personal harassment include:

- Acts of harassment occurring at or away from the workplace or union related activities;
- Verbal abuse or threats;
- Unwelcome remarks, jokes, and taunts of a discriminatory nature;
- Displaying racist or offensive materials;
- Practical jokes which cause embarrassment or humiliation;
- Unwelcome invitations or requests; and
- Unnecessary or unwelcome physical contact.

Abuse of authority is the individual's improper use of position or authority with its implicit power to endanger the rights as a union member, to undermine job performance, to threaten the economic livelihood of employees, or in any way to interfere with or influence an employee's career.

Acts, which have been found to constitute an abuse of authority, include:

- Intimidation,
- Threats of dismissal,
- Insults,
- Unfair distribution of work,
- Unnecessary physical contact, and
- Blackmail or coercion.

A **poisoned environment** is a form of harassment where members are subjected to a working environment, which is hostile, offensive or intimidating. Such environments often reflect places where there are little or no efforts to restrain harassing behaviours.

An **unsubstantiated complaint** is one where an investigator is unable to find evidence that the events of an incident constitute harassment as defined in this policy. This does not mean that harassment did not occur but only that no independent corroboration of the complaint was discovered.

An **unfounded complaint** is one where an investigator finds evidence that the alleged incident could not have happened or that the complainant was using the process to discredit another individual. A disciplinary response will be taken against those

complainants where evidence indicates their complaint was unfounded or filed for a malicious purpose.

The **working environment** includes but is not limited to the union office, washrooms, cafeterias, training sessions, business travel, conferences, union related social gatherings, the member or client's home or work site, etc.

Responsibilities:

Every member/employee of the IBEW Local37 is responsible to play a part in ensuring that the working environment is free from harassment. This responsibility is to be discharged through the following activities:

- Avoiding any conduct which might constitute harassment;
- Voicing concerns if an member/employee considers something to be offensive; and
- Treating all members of the Union and customers in a manner that is free of harassment and that respects individual differences.

In addition, any member/employee of the IBEW local 37 who believes that a fellow member has experienced or is experiencing harassment, or retaliation for having brought forward a complaint of harassment, is encouraged to notify the Union Office or the 1st District Office.

Members/Employees with supervisory duties, members of the Executive Board are obligated to carry out the additional responsibilities for due diligence in the application and enforcement of this policy. Therefore these members/employees are responsible to take action according to the procedural guidelines attached to this policy if they have any knowledge of harassment even though it may not involve a member/employee who reports directly to them.

This responsibility is to be discharged through the following activities:

- Incorporating and promoting the principles of this policy in their daily activities;
- Discouraging and preventing harassment.
This is a continuing responsibility, whether or not formal written complaints of harassment have been brought to the attention of the IBEW Local 37.

- Taking immediate action to investigate any situation where issues of harassment have been brought to their attention whether or not a formal complaint had been filed;
- Imposing strict disciplinary measures when a complaint of harassment is substantiated, regardless of the seniority of the offender;
- Supporting and assisting any member/employee who complains of harassment by a person who is not a member/employee of the IBEW Local 37, but with whom an member/employee comes in contact through union or union-related activities;
- Providing advice and support to both complainants and respondents;
- Formally acknowledging that harassment has taken place to persons who have been harassed;
- Regularly reviewing the procedures of this policy to ensure that they adequately meet the policy objectives;
- Making all members/employees of the IBEW Local 37 aware of harassment policy; and

Reference/Appendix: NB Human Rights Act

Contact Department:

President and Chief Executive Officer

APPENDIX "A"

Internal Complaints Procedure

Introduction

The IBEW Local 37 will investigate every situation where an issue of harassment has been brought to their attention as well as all formal written complaints. Members/Employees are responsible for co-operating fully with the investigation procedures.

Confidentiality will be maintained throughout the investigation to the extent practicable and appropriate under the circumstances to protect the interests of parties to a complaint and witnesses. All records of complaints including contents of meetings, interviews, and results of investigations will be kept confidential by the IBEW Local 37 except where disclosure is required by any disciplinary or other remedial process.

Where possible, a person who considers that he or she has been subjected to harassment or to retaliation for having brought forward a complaint of harassment (herein after referred to as the "complainant") is encouraged to bring the matter to the attention of the person responsible for the conduct.

Where the complainant does not wish to do this, or where such an approach is attempted and does not produce a satisfactory result, complaints can be made to a shop steward, Union Office or Executive Board member.

The Business Manager or his delegate will determine whether to convene an on-site process or to refer the matter for a formal review or investigation.

The Executive Board will appoint two persons to serve as advisors and/or investigators for a formal process. In the case of a complaint against an Executive Board member the complaint will be referred to the 1st District Office.

APPENDIX "B"

Guidelines for the Internal Complaints Procedure

These guidelines outline the steps to be followed when a member/employee of the IBEW Local 37 brings forward a complaint of harassment. An individual, who considers that they have been subjected to harassment, or retaliation for having brought forward a complaint of harassment, is referred to as the "complainant". The individual against whom the complaint has been brought will be referred to as the "respondent".

- 1) When a member/employee is unsure whether certain behaviours constitute harassment, he or she is encouraged to seek assistance from a shop steward or Executive Board Member before laying a formal written complaint. The member/employee should be advised that situations discussed with shop stewards or with board members may not be held confidential if an investigation is warranted. The mandate for shop stewards and for the Executive Board is to act upon knowledge of any situation that may constitute harassment.
- 2) When the problem can be handled informally through discussions among the persons involved, members/employees are encouraged to seek resolution of harassment issues without formal intervention.
- 3) When the complainant feels uncomfortable bringing the matter directly to the attention of the member/employee responsible, or when it is attempted and does not produce a satisfactory result, the complainant should bring the matter to the attention of their shop steward or business manager. If this does not produce a satisfactory result, or if the complainant is fearful of pursuing such a course of action, he or she should contact a member of the Executive Board.

- 4) When a member/employee believes that a fellow member has experienced or is experiencing harassment or retaliation for having brought forward a complaint, he should report this belief to a shop steward or a member of the Executive Board. This person may meet with the member/employee who is being subjected to harassment, and/or the member/employee against whom the complaint was laid and may subsequently proceed with a formal complaint procedure.
- 5) An investigator, appointed by the executive board or 1st District Office, will take immediate steps to review a potential complaint and determine whether the complaint has sufficient merit to proceed to an internal investigation. If the decision is to convene an investigation, two investigators will be appointed and the investigation will begin within five working days. The investigators will assist the complainant in drafting a statement of complaint if so requested.
- 6) As soon as the decision is taken to convene a formal process, the investigator shall notify:
 - the Business Manager that an investigation is underway,
 - the executive board of the specifics of the complaint;
 - the 1st District Office
- 7) When an investigator conducts an internal review of a potential complaint and decides an investigation is not warranted, he or she will advise the complainant of the outcome of the internal review.
- 8) A complainant may bring to the attention of a shop steward, executive Board member or investigator, facts that constitute prima facie evidence of harassment but, after discussion with the representative, decide not to lay a formal written complaint. The representative, having received evidence of harassment, after a preliminary informal review, must decide whether or not to lay a formal written complaint even though the decision is contrary to the wishes of the complainant. The decision should be based on the degree of severity of the incident(s) and the representative's assessment as to whether some milder form of intervention may suffice. The conversation and any action taken should be documented.
- 9) Where the representative decides that the evidence and the surrounding circumstances are such as to require the laying of a formal written complaint, the representative will:

- inform the complainant of the action being taken;
- issue a formal written complaint and sign it him or herself;
- provide copies of the complaint, without delay, to the complainant and the respondent; and
- notify the parties listed in section 5 without delay.

10) When an investigator provides the respondent with a copy of the complaint, he or she will include a copy of the policy. The respondent shall also be notified of their right to be represented by legal counsel, a union representative or another member/employee of choice at any stage of the process when the respondent is required or entitled to be present throughout the investigation.

11) Once an investigation is convened, the investigators will first ensure that statements are taken from both the complainant and the respondent and copies of these statements are provided each to the other. Investigators will then gather information and other documentation from witnesses. This information will be evaluated in order to make a determination as to whether the evidence gathered substantiates a complaint of harassment within the parameters of the IBEW Local 37's harassment policy. A report on the findings of the investigation will be submitted within twenty working days of the appointment of the investigators. The Executive Board or 1st District Office may extend this deadline when circumstances warrant.

12) When the internal investigation finds that the complaint of harassment is substantiated, the outcome of the investigation and any recommended remedial actions will be recorded in a report prepared by the investigators. Copies of the report are submitted to the Executive Board. The complainant and the respondent will also receive copies of the report with the recommendations removed. The complainant will receive notice that the complaint has been substantiated and that disciplinary action is being taken but not the specifics of that action.

13) When the investigation finds that the complaint of harassment is not substantiated, a similar report is submitted to the Executive Board. The complainant and the respondent will receive copies of the report with the recommendations removed. The complainant and the respondent will be notified that the investigators were unable to substantiate the complaint. Where evidence emerges that indicates that the complaint was unfounded and may have been filed with malicious intent, a recommendation for disciplinary action against the complainant will be made within the report and it will be given to the complainant's manager.

14) The first priority of the IBEW Local 37's policy is the satisfactory resolution of disputes and complaints. Therefore, although the complainant decides to lay a formal written complaint, the investigator may, if the complainant consents, seek a meeting with the respondent with a view of obtaining an apology or such other resolution as will satisfy both parties.

At any time during a review or an investigation, if investigators assess that the situation is favourable for both the complainant and respondent to come to a mutual understanding, the complaint procedure may be set aside in order to attempt to bring about resolution. The attempt at resolution will happen only once and if unsuccessful, the investigation will proceed to conclusion.

Should the complainant wish to withdraw a complaint once a complaint process is underway, the investigators will assess the situation to determine if the process will continue. If the investigation continues the complainant is still expected to participate as a witness.

15) The investigator will advise both parties that, the complainant cannot arbitrarily choose to stop the complaint procedure without a full resolution process. Apart from a mutually agreed resolution process, the mandate is that the investigator will pursue the investigation and recommend whatever remedial action is appropriate.

If the resolution process is successful, the complainant will be asked to sign a waiver indicating that the matter is resolved and that he or she is withdrawing the complaint.

16) Members/Employees are encouraged under the harassment policy to meet with the investigator and to co-operate with all those responsible for the investigation of the complaint. All parties to a complaint, witnesses or those who have any knowledge of the incident are expected to maintain confidentiality with respect to the investigation.

17) All the notes taken during the investigation will be collected and retained on file locked in the IBEW Local 37 office. Investigators may be subject to subpoena and are responsible to produce their notes if they are asked to testify at remedial hearings subsequent to the internal complaint procedure. The notes may also be made available to the International Office in the event disciplinary action

arising out of the complaint is subject to charges under the IBEW constitution.

18) Copies of reports prepared by the investigators, notes and other evidentiary material will be retained in discreet harassment files for a minimum period of six years.