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IMPACT JUSTICE MODEL SEXUAL HARASSMENT POLICY



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IMPACT JUSTICE

(Improved Access to Justice in the Caribbean)

Sexual Harassment Policy

A policy statement against sexual harassment has not been included in the Barbados Employment Sexual Harassment (Prevention) Act, 2017. According to the Act, each employer must provide a policy statement to prevent sexual harassment in the workplace within 6 months of the Act being proclaimed, which was in December, 2017.

As a public service, the IMPACT Justice Project which is funded by the Government of Canada is publishing the following Sexual Harassment Policy Statement, which employers might consider adopting.

POLICY

1 Purpose

- 1.1 It is the policy of [] to provide an environment free from harassment of any kind and for any reason, whether because of sex, age, relationship status, sexual preference, religious belief, colour, race, creed, national or ethnic origin, disability, or any other factor or relevant circumstance.
- 1.2 An employee and any third party or person on the premises of [] is entitled to work, provide services or be in an environment free of sexual harassment.
- 1.3 Sexual harassment violates an individual's fundamental rights and personal dignity, it is unlawful, and will not be tolerated by [].
- 1.4 When [] determines that an allegation of sexual harassment is true, it will take prompt and appropriate corrective action.
- 1.5 The provisions of this policy are subject to the Employment Sexual Harassment (Prevention) Act, 2017.

2. Definition

- 2.1 Sexual harassment is unwanted or unwelcomed sexual attention of an offensive nature made by a person who knows, or reasonably should know, that the attention is unwanted or unwelcomed by the other person and that the other person may conclude that the conduct was intended to —
 - (a) offend, humiliate, disrespect or degrade him or her;



- (b) intimidate, threaten or compel him or her by putting him or her in fear of being placed at a disadvantage or prejudiced if he or she does not submit to the sexual harassment; or
 - (c) create a hostile environment for him or her, or violate his or her dignity.
- 2.2 Sexual harassment encompasses a wide range of inappropriate conduct or acts under the law, but in addition to the conduct or acts prohibited under the law, other examples of conduct specifically prohibited by [] include —
- (a) promising, directly or indirectly, a person a reward if the person complies with a request of a sexual nature;
 - (b) threatening, directly or indirectly, to retaliate against a person if the person refuses to comply with a request of a sexual nature;
 - (c) denying, directly or indirectly, a person an opportunity if the person refuses to comply with a request of a sexual nature;
 - (d) engaging in sexually suggestive physical contact or touching or grabbing of another person in a way that is unwelcome;
 - (e) repeatedly standing too close to or brushing up against a person;
 - (f) engaging in explicit language, sexually suggestive gestures, or indecent exposure;
 - (g) making sexual or romantic advances toward a person and persisting despite the person's rejection of the advances;
 - (h) sexual pranks, or repeated sexual teasing, jokes, or innuendo, in person or via e-mail or other electronic means;
 - (i) verbal abuse of a sexual nature;
 - (j) repeatedly asking a person to socialize during off-duty hours when the person has said no or has indicated he or she is not interested (A [Supervisor/Director/Manager] in particular should be careful not to pressure an employee or third party on the premises of [] to socialise);
 - (k) giving gifts or leaving objects that are sexually suggestive;
 - (l) [repeatedly making sexually suggestive gestures];
 - (m) making or posting sexually demeaning or offensive pictures, cartoons or other materials in the workplace;
 - (n) off-duty, unwelcome conduct of a sexual nature that affects the [work/school] environment;



- (o) deliberately creating an overall offensive environment, including use of vulgar language, displaying, storing, or transmitting sexually explicit photographs or other materials, and the telling of sexual stories.
- 2.3 Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own may not be sexually harassing.
- 2.4 Certain behaviours, such as conditioning promotions, awards, grades, training or other benefits upon acceptance of unwelcome actions of a sexual nature, are always wrong and prohibited by [].
- 2.5 An [employee] is prohibited from harassing another [employee] or third party whether or not the incidents of harassment occur on [] property and whether or not the incidents occur during [working] hours.
- 2.6 The victim can be of the same sex as the harasser. The harasser can be a [Supervisor/Director/Manager], another [employee or a non-employee] or third party who has a business relationship with [] or may be on the premises of [].
- 2.7 Although sexual harassment typically involves a person in a greater position of authority as the harasser, a person in a position of lesser or equal authority may also be found responsible for engaging in prohibited sexual harassment.
- 2.8 Consensual sexual or romantic relationships between [employees] are deemed unwise and are strongly discouraged by [] in particular if one [employee] has supervisory authority over the other [employee].

3 The Employee's Rights and Responsibilities under this Policy

- 3.1 All incidents of sexual harassment or inappropriate sexual conduct should be reported by an employee or third party regardless of their seriousness.
- 3.2 If an [employee] or a third party believes that he or she has been subjected to sexual harassment or any unwanted or unwelcome sexual comment, conduct, innuendo, gesture, contact, advance or attention by anyone (e.g., a co-worker or other person), he or she should—
 - (a) make his or her unease and/or disapproval directly and immediately known to the alleged harasser orally or in writing and advising that such conduct is unwelcome and offensive and must stop; and
 - (b) report the incident immediately to the [Supervisor/Director/Manager] in writing. If the



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[Supervisor/Director/Manager] is responsible for the sexual harassment, report the conduct to the [Chairperson of the Board].

- 3.3 A person should feel free to raise concerns and make a report without fear of reprimand.
- 3.4 The privacy of the complainant and of the person accused of sexual harassment must be maintained and all information must be kept strictly confidential.
- 3.5 [] shall not retaliate against or victimise an employee or third party for filing a complaint of sexual harassment or for cooperating in an investigation of a sexual harassment complaint;
- 3.6 The employee shall not make a false complaint of sexual harassment.

4. [Employer's] Responsibilities under this Policy

- 4.1 If [] receives an allegation of sexual harassment, or has reason to believe sexual harassment is occurring, it will take the necessary steps to ensure that the matter is promptly investigated and addressed.
- 4.2 [] is committed to take action if it learns of instances of sexual harassment, even if the individual does not wish to file a formal complaint.
- 4.3 All complaints will be promptly and carefully investigated by the administration, and all employees are assured they will be free of any and all reprisal or retaliation from filing such complaints.
- 4.4 An administrative investigation will include interviews with all relevant persons, including the complainant, the accused and other potential witnesses. In determining whether an alleged conduct constitutes sexual harassment, the record as a whole and the totality of the circumstances, such as the nature of sexual advances and the context in which the alleged incidents occurred will be examined. A determination of appropriate action will be made from the facts, on a case-by-case basis.
- 4.5 The administration will review the finding with the complainant at the conclusion of its investigation. If the investigation reveals that the complaint appears to be valid, immediate and appropriate corrective action, up to and including discharge, will be taken to stop the harassment and prevent its reoccurrence. If the validity of the complaint cannot be determined, immediate and appropriate action will be taken to assure that all parties are reacquainted with the sexual harassment policy and to avoid sexual harassment in the future.
- 4.6 Any finding can be appealed to the [] using the company's existing [grievance/disciplinary] policy.



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- 4.7 If a complaint involves a member of the administration, then a written request should be made to the [Chairman of the Board] to establish a [Committee] to investigate the complaint.
- 4.8 Prevention is the best tool for the elimination of sexual harassment. [] and the administration express strong disapproval of any acts that can be construed as an act of sexual harassment of any [person/employee] or third party on the premises of [].

5. Resolution

- 5.1 An [employee] of [] who has been found to have sexually harassed another [employee], third party or visitor/patron of [] will be subject to disciplinary action up to and including termination.
- 5.2 An employer who has made a false complaint of sexual harassment shall be subject to disciplinary action up to and including termination.
- 5.3 An employee who is dissatisfied with the resolution of a sexual harassment complaint or suffers further harassment after the resolution of a complaint from the same harasser, may make a complaint to the Chief Labour Officer in accordance with section 10 of the Employment Sexual Harassment (Prevention) Act, 2017.

6. Confidentiality

- 6.1 All inquiries, complaints and investigations are treated with confidentiality. Information is revealed strictly on a need-to-know basis. However, the identity of the complainant usually is revealed to the accused and witnesses.
- 6.2 An [employee], a third party or other individual contacted in connection with a complaint will be counselled that any information pertaining to the complaint must be held in confidence.