

## 4.5 HARRASSMENT POLICY

### **Overview**

BACI recognizes the right of employees to work in an environment free from harassment. To that end, BACI strives to provide a working environment that is free from harassment. Sexual or personal harassment in any form is unacceptable behavior and will not be tolerated.

This policy is designed to notify all directors, employees, managers, members and volunteers associated with BACI of what conduct is prohibited so as to ensure an environment free from harassment, both sexual and personal, to ensure that all victims and potential victims of harassment are aware of their rights, and to inform all employees of BACI about the procedures available for addressing and resolving harassment complaints. This policy addresses, and is limited to, harassment in the working environment, which may include the behaviour of an employee towards another employee off the regular work-place and out-side of regular working hours.

### **Definition**

#### **Sexual Harassment**

Sexual harassment is one or a series of incidents involving unwelcome sexual advances, requests for sexual favours or other verbal or physical conduct of a sexual nature:

- I. when such conduct might reasonable be expected to cause insecurity, discomfort, offence or humiliation to another person or group; or
- II. when submission to such conduct is made implicitly or explicitly a condition of employment; or
- III. when submission to or rejection of such conduct is used as a basis for any employment decision (including, but not limited to, matters of promotion, salary increase, job security and benefits affecting the employee); or
- IV. when such conduct has the purpose or the effect of interfering with a person's work performance or creating an intimidating, hostile or offensive work environment.

Types of behaviour which constitute sexual harassment include, but are not limited to:

- leering;
- the display or distribution of sexually offensive material;
- sexually degrading words, oral or written, used to describe a person;
- derogatory or degrading remarks, oral or written, directed towards members of one sex or pertaining to one's sexual orientation;
- sexually suggestive or obscene questions, comments or gestures;
- derogatory or degrading remarks, oral or written, about one's sex life;

- practical jokes of a sexual nature;
- unwelcome sexual flirtations, advances or propositions;
- persistent unwanted contact or attention after the end of a consensual relationship;
- requests or demands for sexual favours;
- unwanted touching;
- verbal abuse or threats; and
- sexual assault.

Sexual harassment can occur in the form of behaviour by men towards women, between men, between women or by women towards men.

Isolated instances, e.g., a sexual overture, comment, or joke, ordinarily will not constitute sexual harassment unless the circumstances are extreme. Nor does sexual behavior constitute harassment if it is welcomed.

### **Personal Harassment**

Personal harassment is one or a series of incidents, verbal or physical, which are discriminatory in nature, based upon another person's race, colour, ancestry, place of origin, political beliefs, religion, marital status, physical or mental disability, sex, age, or sexual orientation. It is discriminatory behaviour, directed at an individual, which causes substantial distress in that person and serves no legitimate work-related purpose.

Such behaviour could include, but is not limited to:

- physical threats or intimidation;
- words, gesture, actions, or practical jokes, the natural consequence of which is to humiliate, alarm or abuse another person;
- derogatory or degrading remarks, oral or written
- distribution or display of offensive pictures or materials
- degrading words, oral or written, used to describe a person;
- suggestive or obscene questions, comments or gestures;
- unwelcome inquiries or comments about a person's personal affairs;

To constitute personal harassment, behaviour may be repeated or persistent or may be a single serious incident.

Personal harassment does not include actions occasioned through the exercising in good faith the Employer's supervisory rights and responsibilities. Hence, while direction, evaluation, investigation and discipline all have the potential to cause substantial distress, they do not constitute harassment if they serve a legitimate work-related purpose and are not applied in a discriminatory fashion.

### ***Communication and Conflict Resolution***

If the actions of a co-worker, supervisor or manager cause an employee discomfort, but do not constitute harassment, the employee should express their concerns and desire for the behaviour to change directly to the person.

If the employee does not feel comfortable in confronting the co-worker directly, the employee should request assistance from the direct supervisor in dealing with the issue. If the employee does not feel comfortable in confronting the supervisor, the employee should inform the manager and where the employee does not feel comfortable in confronting the manager, the employee should inform the executive director.

Where the concern is with actions of the executive director, the president of the Association should be informed directly.

### ***Harassment Complaint Procedures – Bargaining Unit Employees***

Where an employee, who is a member of the bargaining unit believe that they are or have been a victim of harassment, sexual or personal, and wish to make a complaint, then the following procedures, which are consistent with the Collective Agreement, apply.

- a. An employee (complainant) who wishes to pursue a concern arising from an alleged harassment may submit a complaint in writing within six (6) months of the latest alleged occurrence directly to the Executive Director. Upon receipt of the written complaint, the Employer shall notify in writing the designated Union staff representative. Complaints of this nature shall be treated in strict confidence.
- b. An alleged harasser (respondent) shall be given notice of the substance of such a complaint under this clause and shall be entitled to attend, participate in, and be represented at any hearing pursuant to (g) below.
- c. The Employer's designate shall investigate the complaint and shall submit his/her report to the Executive Director in writing within fifteen (15) days of receipt of the complaint. The Executive Director shall within ten (10) days of receipt of the reports give such orders as may be necessary to resolve the issue. The Union Staff Representative, the complainant and the respondent shall be apprised of the Executive Director's resolution.
- d. Both the complainant and the respondent shall be given the option of having a steward present at any meeting held pursuant to the above investigation.
- e. Pending determination of the complaint, the Executive Director may take interim measures to separate the employees concerned if deemed necessary.

- f. In cases where harassment may result in the transfer of an employee, every effort will be made to relocate the harasser, except that the harassee may be transferred with his/her written consent.
- g. Where either the complainant or the respondent, in conjunction with the Union, is not satisfied with the Executive Director's response, the Union will put the complaint, within thirty (30) days, before a mutually agreed upon, independent adjudicator who specializes in cases of personal harassment or sexual harassment. The adjudicator shall work with the parties to achieve a mutually acceptable resolution and if this is not achieved, the adjudicator shall have the right to:
  - I. dismiss the complaint; or
  - II. determine the appropriate level of discipline to be applied to the harasser.
  - III. make further recommendations as are necessary to provide a final and conclusive settlement of the complaint.
- h. Disciplinary action taken against a harasser pursuant to this clause, shall not form the basis of a grievance.
- i. Where the complaint is determined to be of a frivolous, vindictive or vexatious nature, the Employer will take appropriate action which may include discipline.
- j. This clause does not preclude an employee from filing a complaint under Section 8 of the B.C. Human Rights Act. However, an employee shall not be entitled to duplication of process. An employee making a complaint must choose to direct a complaint to either the B.C. Council of Human Rights or the process specified above. In either event, a complaint of personal harassment or sexual harassment shall not form the basis of a grievance.
- k. Complaints under this Article shall be treated in strict confidence by all parties involved.

***Harassment Complaint Procedures – Exempt Employees***

Where an exempt employee believes that they are or have been a victim of harassment, sexual or personal, and wish to make a complaint, then the following procedures apply.

- a. An exempt employee (complainant) who wishes to pursue a concern arising from an alleged harassment may submit a complaint in writing directly to the Executive Director, unless the Executive Director is the alleged harasser, in which case the complaint should be submitted to the President of the Association. All complaints shall be treated in strict confidence.

- b. An alleged harasser (respondent) shall be given notice of the substance of such a complaint and shall be entitled to attend, participate in, and be represented at any hearing pursuant to (g) below.
- c. The Employer's designate shall investigate the complaint and shall submit his/her report to the Executive Director (or President, where the Executive Director is the alleged harasser) in writing within fifteen (15) days of receipt of the complaint. The Executive Director (or President) shall within ten (10) days of receipt of the reports give such orders as may be necessary to resolve the issue. The complainant and the respondent shall be apprised of the Executive Director's or President's resolution.
- d. Both the complainant and the respondent shall be given the option of having a representative present at any meeting held pursuant to the above investigation.
- e. Pending determination of the complaint, the Executive Director (or President) may take interim measures to separate the employees concerned if deemed necessary.
- f. In cases where harassment may result in the transfer of an employee, every effort will be made to relocate the harasser, except that the harassee may be transferred with his/her written consent.
- g. Where either the complainant or the respondent, in conjunction with the Union, is not satisfied with the Executive Director's (or President's) response, the Employer will put the complaint, within thirty (30) days, before a mutually agreed upon, independent adjudicator who specializes in cases of personal harassment or sexual harassment. The adjudicator shall work with the parties to achieve a mutually acceptable resolution.
- h. Where the complaint is determined to be of a frivolous, vindictive or vexatious nature, the Employer will take appropriate action which may include discipline.
- i. This clause does not preclude an employee from filing a complaint under Section 8 of the B.C. Human Rights Act.
- j. Complaints under this Article shall be treated in strict confidence by all parties involved.

***Statement of Compliance***

I have read the BACI's Harassment Policy. I fully understand the terms of this policy and agree to abide by them.

I know that any violation of this policy may lead to disciplinary action being taken.

\_\_\_\_\_  
Employee name & position

\_\_\_\_\_  
Employee signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor name - program