

NLG SEXUAL HARASSMENT POLICY AND COMPLAINT PROCEDURE

1.0 Introduction

The National Lawyers Guild (NLG) is committed to providing a safe environment for all members of the organization, free from any harassing or discriminatory conduct. Sexual harassment in any form or context, irrespective of the actual or perceived gender identities, gender presentations, or sexual orientations of the persons involved, will not be tolerated. It is discriminatory, unlawful, and clearly inconsistent with the mission and philosophy of the NLG.

The NLG's sexual harassment policy applies to all entities including, but not limited to, staffed chapters, projects, and committees, and all members of the organization. The NLG recognizes that sexual harassment may occur regardless of the formal position or status of each person involved. Sexual harassment is especially inappropriate, however, when it occurs in relationships between supervisor and subordinate, or in any other relationship with a disparity of authority or status. In those situations, the behavior exploits unfairly the power inherent in the position or status.

1.1. Definition

Sexual harassment is unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual and/or coercive nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or membership in the NLG or any of its constituent entities;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions, or decisions pertaining to membership, position or status within the NLG or any of its constituent entities, affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or depriving an individual of the ability to fully participate in organizational opportunities and activities or creating an intimidating, hostile, or offensive environment for working, volunteering and otherwise participating in the NLG.

It is difficult to define with precision what kind of behavior (verbal, physical, perpetrated via electronic media) constitutes sexual harassment because it depends on circumstances such as the severity and/or pervasiveness of the act/behavior, the relationship between the alleged harasser and the recipient of the harassment, and whether the conduct is part of a pattern. However, a single or isolated incident may create a hostile environment. Although it is not possible to list all types of conduct that, if unwelcome, might constitute sexual harassment, the term sexual harassment includes, but is not limited to:

Gender Harassment: Unwelcome generalized gender based remarks and behavior including but not limited to questions, jokes, or anecdotes, regardless of the means of communication, based on actual or perceived gender identity and/or gender presentation, including visual harassment, such as derogatory or offensive posters, cards, cartoons, graffiti, drawings, gestures or internet images;

Sexualized Behavior: Unwelcome sexually explicit statements or communications including but not limited to inquiries and commentaries about sexual activity, experience, or sexual orientation; or graphic physical references;

Seductive Behavior: Unwelcome and/or inappropriate or offensive physical, verbal or visual sexual advances and/or subtle pressure for sexual and/or romantic activity;

Sexual Bribery: Solicitation of sexual activity or other sex-linked behavior by promise of reward;

Sexual Coercion: Coercion of sexual activity by threat of punishment or other forms of retaliation; and

Sexual Assault: Unwelcome and/or threatened imposition of physical contact such as touching, fondling, grabbing or assault.

1.2 Policy On Sexual Harassment

A. In recognition of the dignity and worth of each person who is a member of, works for, volunteers at, or is a guest of the NLG, sexual harassment will not be tolerated, whether it is committed by employees or members of the NLG against anyone affiliated with the NLG. Such harassment is illegal and constitutes misconduct. Sexual harassment runs counter to our anti-oppression principles, undermines the public's confidence in the NLG, violates the value the NLG places on membership and employment relationships, debilitates commitment to the organization, and can be destructive to its survivors.

B. The national and regional NLG leadership, and designated Anti-Harassment Complaint Board (AHC Board) as defined under Section 15.3 Procedures for Resolution, shall ensure knowledge of, and monitor compliance with this policy and, upon being informed of possible harassment, shall take appropriate, immediate action in response.

1.3 Procedures for Resolution

These procedures are meant to be in addition to the grievance procedure and arbitration under the NLG's Collective Bargaining Agreement, not in lieu of it. This policy recognizes the NLG as being a largely volunteer and decentralized organization, with regular turnover in leadership. As such, there will be variation in investigation and resolution practices at various levels within the organization. All NLG workplaces and events shall establish mechanisms for hearing and resolving oppressive behavior. The Guild shall constitute, and advertise the names and contact information for, an Anti-

Harassment Complaint Board (AHC Board), comprised of qualified NLG members capable of resolving conflicts, disputes, and harm arising from sexual harassment. Each event of the Guild (including but not limited to the annual national convention, the annual regional conferences, the annual fundraising dinners, and other events open to the general public) shall advertise the names and contact information for the AHC Board. The Board shall consist of, at a minimum, three individuals who shall make themselves available to hear and help resolve any complaints from staff, board, members, volunteers and guests of the NLG.

A. Informal Procedures

STEP 1:

Complainants may inform the alleged harasser, either directly or through a third party, that the behavior in question is offensive and unwelcome. Failure on the part of the person alleging harassment to do so will not preclude an investigation of the incident(s) if the NLG is made aware of the harassment through other means and will not preclude filing a grievance under this policy.

STEP 2:

If a complainant is not satisfied by or does not choose to follow Step 1, then the individual shall discuss the matter with the leadership of the respective NLG entity (e.g. Executive Director of staffed chapter or project, leadership of un-staffed chapters, and/or staffed or un-staffed committees or student chapters), who may attempt to resolve the complaint informally. If the leadership is the alleged offending party or part of the problem, or if there is a conflict of interest, the complainant shall go directly to Step 3. Alternatively, if the party raising the conflict of interest does not wish to bypass Step 2, they may request that the NLG leader with whom there is a conflict be disqualified from the resolution process, or that a neutral substitute be chosen. A conflict of interest may exist where an individual, or individuals, among the leadership of the respective NLG entity to which the complainant has turned for resolution of their complaint, cannot resolve the matter in a neutral fashion because of their relationship to the complainant or the alleged harasser, or because of knowledge of confidential information relating to the incident of harassment. A conflict of interest can be raised by either the complainant, the alleged harasser, or an individual or individuals in the leadership of the NLG entity responsible for resolution of the matter.

Step 1 and 2 equally apply if the alleged harasser is not a member of the NLG but the alleged harassment happened in the context of a Guild event.

Step 3.

If the complainant is not satisfied with the result of Step 2, or if she/he or the leadership of the concerned Guild entity decides to bypass that step, the complainant shall meet with the AHC Board, either by phone, email, or in person. If a conflict of interest becomes apparent, as defined above in Step 2, the complainant may bypass Step 3 and proceed directly to Step 4, request the disqualification of the conflicting individual, or request a substitute. Alternatively, the complainant may go directly to the President of the NLG

and the Anti-Sexism Committee Chair(s), invoking the procedures set forth in Step 5. Upon the receipt of an oral or written complaint laying out the basic underlying facts, the AHC shall act upon the complaint within ten (10) calendar days by:

- i. Providing the complainant with information concerning his/her rights, including the right to file a formal complaint;
- ii. Investigating and attempting to resolve the complaint informally.

B. Formal Procedures

STEP 4:

If the complainant wishes to bypass the informal procedures or is not satisfied with the results of the informal procedures, a formal written complaint shall be filed with the AHC Board. The same rules of conflict apply as above. The AHC Board shall notify the alleged harasser of the complaint within five (5) working days of its receipt. The alleged harasser shall have five (5) working days from receipt of notification to respond either orally or in writing to the complaint. The contents of any oral or written response shall be provided to the complainant within three (3) working days of receipt. The complainant shall be given an opportunity to reply to the alleged harasser's response within five (5) working days of receipt. The AHC Board shall conduct an investigation forthwith and within thirty (30) calendar days of the filing of the formal complaint issue a written report containing findings, conclusions, and recommendations. In exceptional cases, an additional ten (10) calendar days may be allowed. A copy of the written determination shall be sent to the complainant and to the alleged harasser.

STEP 5:

If either party is not satisfied with the determination of the AHC Board, an appeal may be made, in writing, to the President of the NLG within ten (10) working days. An appeals panel, composed of the President or designee, the Anti-Sexism Committee Chair(s) or designee, and one to two other members of the NLG appointed by the Executive Committee of the Board, may conduct additional investigations and shall issue a final written determination within 30 days of the receipt of the appeal or complaint. A copy of that written determination shall be sent to both parties.

1.4 Confidentiality

Complainants may request to remain anonymous. However, complete confidentiality restricts options and may make it difficult to resolve the problem. Disclosure may be necessary under certain circumstances; however, inquiries and complaints will be kept confidential to the fullest extent practicable. The sexual harassment investigative proceedings will be conducted in a manner to protect the confidentiality of the complainant, the alleged harasser and all witnesses. All procedures will comply with the duty to investigate under Title VII.

1.5 Prohibition Against Retaliation

Retaliation by either employees or the NLG in any form against any person who complains of sexual harassment or who assists in the investigation of such complaints is expressly prohibited. A charge of retaliation may be raised at any step of the complaint procedures or may form the basis of a new complaint. Retaliation may be the basis for a new complaint, even if the original complaint of sexual harassment has been dismissed.

1.6 Remedial Action

The leadership of the National Lawyers Guild expects all its entities to take swift and appropriate remedial action. Recommended remedial action for persons found in violation of this policy may include, but are not limited to: referral to counseling; oral reprimand; written reprimand; reassignment; suspension (with or without pay); termination; exclusion from NLG cases, activities, and membership or other action such as facilitated victim-harasser reconciliation. Remedial action for non-employees may also include termination of contracts with vendors or other appropriate action. An employee who is aggrieved by the remedial action imposed on him/her may file a grievance under the procedure set forth in the NLG's Collective Bargaining Agreement.

1.7 Other Complaint Procedures

Complainants may choose to use both this complaint procedures and external procedures available under Federal or State law. The time periods within which complaints may be filed with State or Federal civil rights agencies are short and choosing this procedure does not stop those time periods from running.

1.8. Right To Representation

While representation is not required, both the complainant and the person against whom a complaint is filed have the right to be represented through the process by an attorney, union representative, or a person of their choice.