

NDP POLICY ON

Discrimination, Harassment, and Sexual Violence

EFFECTIVE APRIL 2018

POLICY REGARDING HARASSMENT

The following document addresses prevention, protocols and responses to allegations of discrimination, harassment and sexual violence.

POLICY

The New Democratic Party (NDP) is committed to providing an environment free of discrimination, harassment, and sexual violence, while being supportive of the self-esteem and dignity of every person who is a member or is working or volunteering within the NDP.

The NDP's intent is to ensure there is a climate of understanding, cooperation, and mutual respect. To be successful in this objective, it is incumbent upon all members and employees of the NDP to not condone or tolerate behavior that constitutes discrimination, harassment or sexual violence.

The NDP will provide a fair and prompt investigation of any complaint or concern without fear of reprisal.

SCOPE

This policy applies to complaints of discrimination, harassment, bullying, and sexual violence that involve management, employees, volunteers, officers, candidates, MPs and members of the NDP involved in meetings, campaigns, and organizational events such as NDP conventions, NDP leadership contests, NDP canvas nights and NDP-specific social gatherings.

This policy covers complaints of discrimination, harassment and sexual violence in the NDP as defined below.

DEFINITIONS

Discrimination

Discrimination is an act, behaviour or practice, whether intended or unintended, that has the purpose or effect of imposing burdens, obligations, disadvantages or preferences on a person or group of people which are not imposed on others. Discrimination can be on the basis of gender identity or gender expression, race, ethnicity, language, class or financial status, creed, sexual orientation, disability or different abilities, age or any other kind of discrimination prohibited by the Canadian Human Rights Act.

Systemic discrimination and systems of oppression related to different elements of identity interact on multiple levels and reinforce many forms of discrimination that people experience.

Harassment

Harassment is defined as any unwelcome or objectionable physical, visual, or verbal conduct, comment, or display, whether intended or unintended, that is insulting, humiliating, or degrading to another person, or creates an intimidating, hostile, or offensive environment, made by an employee, volunteer, or member of the NDP;

- Directed at and offensive to any other employee, volunteer, member of the NDP, or any other individual or group that the perpetrator knew or reasonably ought to have known would be offensive.

Examples of harassment include, but are not limited to:

- Threats made or perceived, that are malicious, vexatious, or based on any of the prohibited grounds under Human Rights legislation
- Derogatory written or verbal communication or gestures (e.g. name-calling, slurs, taunting pictures or posters, bullying, graffiti), that are malicious, vexatious, or that relate to any of the prohibited grounds under the Canadian Human Rights Act
- Application of stereotypes or generalizations based on any of the prohibited grounds under the Canadian Human Rights Act
- Cyber threats that are malicious, vexatious, or that relate to any of the prohibited grounds under the Canadian Human Rights Act.

Sexual harassment

Sexual harassment means any unwelcome conduct, comment, gesture, or contact of a sexual nature, whether on a one-time basis or in a continuous series of incidents that:

- Might reasonably be expected to cause offence, embarrassment or humiliation
- Might reasonably be expected to be perceived as placing a condition of a sexual nature on participation, employment, services, or on any opportunity for training or advancement.

Examples of sexual harassment include, but are not limited to:

- Remarks, jokes, innuendoes, or other comments regarding someone's body, appearance, physical or sexual characteristics, or clothing
- Displaying of sexually offensive or derogatory pictures, cartoons, or other material

- Persistent unwelcome or uninvited invitations or requests
- Unwelcome questions or sharing of information regarding a person's sexuality, sexual activity, or sexual orientation
- Conduct or comments intended to create, or having the effect of creating an intimidating, hostile, or offensive environment.

Bullying

Bullying is offensive, cruel, intimidating, insulting, or humiliating behaviour which includes physical violence or the threat of physical violence. It can be physical, written or verbal, direct or indirect, such as gossip or through social media platforms. Bullying is considered harassment in general, unless there is physical contact or a threat of violence, in which case it is considered violence. Bullying is ill treatment which is not addressed under human rights legislation or criminal codes.

Workplace

For the purposes of this policy, workplace includes any location in which employees and/or volunteers are engaged in NDP business activities necessary to perform their assignments. This includes, but is not limited to, NDP offices and buildings; employee/volunteer parking lots; employee/member/volunteer organized work or social gatherings; field locations such as campaign offices; members', co-workers', or volunteers' homes; and during NDP-related business travel.

Abuse of power

Abuse of power happens whenever a member, officer, candidate, MP, or employee abuses or misuses their power and discretion for personal benefit, or in benefit of another person.

Abuse of power, for the purposes of this policy, includes situations involving a minor, situations that involve a reporting relationship, or any situation that includes an accusation from a member against an employee or other person who is providing a service upon which the reporting member depends.

The NDP considers incidents that involve an abuse of power as gravely serious.

POLICY APPLICATION

Prevention

Prevention is always the first line of defense against occurrences of harassment.

It is the responsibility of all managers, employees, officers, candidates, MPs, members and volunteers to ensure their behaviour does not violate this policy and fosters an environment based on respect, with the highest level of care for all in our movement. In addition, there is a duty upon all to prevent harassment by discouraging inappropriate activities and by reporting incidents, as per this policy.

Rights

Everyone has the right to:

- An environment that is free from harassment or violence
- File a complaint if they experience harassment or the environment is otherwise not free from harassment
- Be informed of complaints made against them
- Obtain an investigation of the complaint without fear of embarrassment or reprisal
- Have a fair hearing
- Be kept informed throughout the process and of remedial action taken
- A fair appeal process for both the respondent and complainant
- Confidentiality
- Support from a third party

Obligations

The people in an organization have the responsibility to ensure the safety and health of all those who come in contact with the NDP, whether that contact is as members, volunteers, or employees.

Organizations are obligated legally to take all complaints seriously by:

- Using due diligence, which is the obligation to take reasonable measures to provide appropriate attention and care
- Being very familiar with the harassment policy and following it closely
- Following the process without bias
- Documenting all information from the first disclosure to the final resolution
- Recording only relevant facts
- Signing and dating all documents
- Using reasonable and measured processes and systems for response.

Employee and Volunteer responsibilities:

All employees and volunteers are responsible for contributing to a positive work environment and for identifying and discouraging comments or activities contrary to this policy. This includes

advising people or the alleged harasser that their behaviour is unwelcome should said members or volunteers feel it is safe to do so.

Where a situation occurs or where an employee or volunteer believes a situation has occurred, they are obligated to report it to their supervisor or a leadership volunteer or to the Party President, National Director, Operations Director or Whip. If a situation occurs which involves their supervisor/manager, or if their supervisor/manager does not intervene appropriately, the employee/volunteer may report the situation to the Party President, National Director, Operations Director or Whip.

Unionized employees also have protections and avenues through their collective agreement to address complaints about discrimination, harassment and sexual violence, including the use of representatives and the option of using the grievance process.

Party President (PP) and National Director (ND) responsibilities:

The Party President and National Director are expected to eliminate any aspects of the environment that are not in keeping with this policy, working with the Operations Director and in consultation as appropriate, with staff, volunteers, the Leader's Office and Whip, and Union representatives.

The Operations Director, working with the PP and ND will:

- Advise parties of the process and legal parameters
- Facilitate communication between parties with a view to resolving conflict
- Ensure the process is followed within the prescribed time frame
- Arrange for investigation or expertise, as required
- Coordinate follow up actions
- Maintain original copies of all documentation pertaining to the resolution of differences
- Educate employees and volunteers on the application of this policy.

As required, an impartial, neutral party may be appointed as investigator to address allegations and facilitate redress. Any concerns by either party about the investigator's competence or judgement (concern about bias) may be raised for consideration with the National Director. If the concern is with the National Director, the complainant may, at their option, elect to have an alternative officer fulfill the role contemplated

in these procedures. All of the other provisions of these procedures shall remain in effect.

The investigator shall:

- Determine the parties' needs and understand what they want to get out of the process
- Investigate in a timely and discreet manner
- Inform all parties of their rights and responsibilities
- Secure all complaints and responses in writing, with dates, names, witnesses, full descriptions of the incident(s) and any additional relevant documentation
- Interview the parties involved and any witnesses to the behaviour, if necessary
- Notify any individual interviewed of their right to be accompanied by the representative or support person of their choice
- Keep the parties to the complaint informed during the process, including providing the alleged harasser with full particulars of the allegations and a copy of the written complaint
- An individual accused of discrimination, harassment or sexual violence will be entitled to respond to the complaint and may wish to offer their perspective regarding the allegations and/or present a proposal for resolution
- Prepare a written report for the Operations Director and/or Whip outlining the allegations of the complainant, the response of the alleged harasser, the evidence of any witnesses, and the conclusion reached. If the Operations Director and/or Whip is involved in the complaint are party to the incident or perceived to have a conflict of interest, the complainant may, at their option, elect to have an alternative officer fulfill the role contemplated in these procedures. All of the other provisions of these procedures shall remain in effect.

The Operations Director shall:

- Keep a confidential record of the number of complaints filed, the nature of these complaints, the outcome of the investigation and the type of corrective action taken.

Process

Situations where there has been an accusation of harassment are extremely sensitive and often complex. At all times, the emotional and physical safety of the complainant is paramount, and this may involve taking steps that are not outlined herein. In general, however, the following process should be taken:

Complaint Received > Mediate in limited circumstances &/or Investigate > the NDP will endeavour to take action in as timely a manner as is possible. The duration may vary depending on the complexity of the case and may require extensions.

Complaint: To make an official complaint, a complainant should advise their supervisor/manager or the Operations Director or Whip. Any individual who receives any complaint against an employee, member or volunteer must refer it to the Operations Director or Whip. From here, there are three (3) possible actions:

1. **No Action:** There are no findings of discrimination, harassment or sexual violence.
2. **Resolve:** In certain situations, the complainant may request to have the complaint resolved informally with the assistance of the supervisor/manager or Operations Director/Whip.
3. **Refer:** If the complaint represents moderate or severe harassment or if the incident involves an abuse of power, then the complaint is referred to mediation/investigation or, in potentially criminal circumstances, the police.

Mediate: The alleged harasser will be advised of the complaint, if this has not already happened. A mediator will be chosen by the Operations Director/Whip, and confirmed provided the parties to the complaint agree. In the case where there is no agreement, alternative names will be considered. Mediation takes place and the situation is resolved to the satisfaction of both parties. A written report on the final status of the mediation is provided to the Operations Director/Whip. If no agreement for either a name or process is secured, then the case is referred to investigation.

Investigate: Where, for whatever reason, the complaint remains unresolved, then the Operations Director or Whip, in consultation with the PP and ND, chooses an investigator, unless the PP or ND are themselves implicated in the complaint as a complainant, respondent or witness.

The investigator will conduct a thorough and unbiased investigation and provide a written report of the complaint being filed, including recommendations for action, to the Operations Director/Whip, National Director and the general

counsel. They will confer with one another, and others as required, and the applicable person will make a decision as to the appropriate action within a reasonable time of receiving the investigator's report.

Action

When considering the appropriate action, the Operations Director/Whip, will consider the evidence, the nature of the harassment or violence, whether physical contact was involved, whether the situation was isolated, and whether there was an abuse of power.

Actions may include:

- Verbal or written apologies
- A letter of reprimand or suspension
- A referral to counseling
- Sensitivity training
- Demotion or transfer
- Suspension without pay or temporary suspension of volunteer position
- Termination of employment, volunteer activity and/or membership
- Resignation or withdrawal/removal from caucus
- Withdrawal of support for candidacy
- Referral to police or other legal authorities
- Other sanctions
- Counselling and/or training may be recommended instead of, or in addition to, disciplinary action.

Appeal

Either the complainant or alleged harasser may, within thirty (30) days of being notified of the action, submit an appeal, in writing, to the PP, ND, Operations Director or Whip or designate (designate is not limited to NDP Council or staff). In the event the National Director determines that further investigation is required, any additional findings shall be disclosed to the parties, who will be provided with an opportunity to respond. The National Director will then review the record and determine whether or not a violation of the NDP policy has occurred within a reasonable time of the appeal being filed.

Monitoring

Once a resolution of the complaint has occurred, the Operations Director/Whip will ensure appropriate follow up to ensure the successful application of the resolution. If, during the resolution implementation process there is insufficient change in behaviour, the progressive discipline process will be applied.

Confidentiality

Complaints of harassment will be received and investigated in a confidential manner in accord with the procedures, including prescribing corrective action. Information that must be shared will be disclosed on a need-to-know basis.

Any allegation or complaint of discrimination, harassment or sexual violence will be considered personal information 'supplied in confidence'. The name of the complainant or the circumstances of the complaint will not be disclosed to any person except where disclosure is necessary for the purpose of investigating the complaint. The substance of investigative reports and the substance of meetings held by those in authority regardless of whether it is substantiated will be protected from disclosure to third parties, except where required for legal reasons.

Confidentiality will be enforced to the best of the NDP's ability. Strict confidentiality cannot be guaranteed to anyone who wants to make a complaint of harassment or violence. If a complaint goes through an investigation, the respondent and other people involved will have to learn about the complaint. The complainant can be assured that only people who 'need-to-know' will be told of the complaint.

No investigation information is to be kept on the employee file with the exception of official disciplinary/termination papers. Similar to problem resolution cases, harassment investigation information should be kept indefinitely in a separate file. Proven allegations of discrimination, harassment or sexual violence, including disciplinary action taken, shall be documented and form part of the employee's permanent record. In the case of a volunteer, if the complaint is made within a specific volunteer committee, organization or group, details of the disciplinary action would be kept out of any meeting records, such as minutes.

Disciplinary action

Harassment or violence by an employee, member or volunteer is a serious offence. If an accusation is substantiated, the harasser will be subject to immediate disciplinary action, up to and including dismissal in the case of an employee, or revocation of membership in the case of a member. Support for candidates may be withdrawn and MPs may be expelled from caucus.

Disciplinary action taken by the Federal Party may include:

- Barring an individual from being nominated as a candidate or running for internal Party positions either at the local EDA or national level
- Barring an individual from participating as a volunteer at Federal Office and local or national campaigns
- Barring an individual from being a delegate to Federal Convention
- Barring an individual from attending any events organized by the Federal NDP, local MPs, local EDAs or local campaigns.

As the Constitution of the Federal NDP states that member discipline is the responsibility of the individual Provincial Sections, the Federal Party may, at its discretion, recommend to the appropriate Provincial Section, that an individual has their NDP membership revoked. This recommendation would be made to the appropriate NDP Provincial Secretary and/or Provincial Party President.

Intentionally accusing someone of discrimination, harassment or sexual violence, known to be false, is a serious offence and is subject to disciplinary action. The NDP reserves the right to discipline those whose complaints are deemed frivolous or vexatious.

Any interference with the conduct of an investigation, or retaliation against a complainant, respondent or witness, may itself result in disciplinary action.

Criteria in determining level of disciplinary action shall be based on the facts determined over the course of the mediation/investigation, and will take into account harm to the individual, harm to the NDP and its reputation, and whether or not there was an unequal power relationship.

Where the conduct involves, or may involve, criminal activity, the NDP reserves the right to invoke criminal charges.

Employees and volunteers have a duty to disclose criminal activity.

Human Rights Commission

Nothing in this policy shall be deemed to limit the right of an employee, member, or volunteer to seek assistance from the provincial/territorial Human Rights Commission.

Unionized employees

Nothing in this policy shall be deemed to limit the rights of unionized employees to avail themselves of the procedures and remedies set out in their collective agreements or under labour legislation.

Conflict of Interest

Those involved in the discrimination, harassment or sexual violence resolution process will be objective and free of real or perceived conflict of interest. In the event the PP, ND, Operations Director or Whip are party to the incident or perceived to have a conflict of interest, the complainant may, at their option, elect to have an alternative officer fulfill the role contemplated in these procedures. All of the other provisions of these procedures shall remain in effect.

RESPONSIBILITY

The Operations Director/Whip will ensure this policy is distributed to all NDP employees, to leadership volunteers and campaign staff, and to candidates and MPs.

An orientation to the policy will be provided to all employees and leadership volunteers to ensure the policy is understood.

Employees, officers, candidates and MPs will be required to sign this policy stating they have read and understand the policy.

The National Director will prepare an annual report to Council of formal and informal complaints in relation to this policy, provided this does not jeopardize confidentiality.

Council will ensure this policy is reviewed and revised as required at least every four years.

This document used the National Farmers Union Anti-Discrimination Policy 2017 as a template, with permission.

