

NIGERIA BAR ASSOCIATION SEXUAL HARRASHMENT & BULLYING POLICY 2023

CONSCIOUS of the prevalence of sexual harrashment and bullying among members of the legal profession in Nigeria

MINDFUL that this ugly trend is antithetical to all standards of decency, emotional and mental health, productivity and the high moral conduct expected of an individual called to the Nigeria Bar

AWARE that the tolerance of all forms of sexual harrashment and bullying in the legal profession in Nigeria does not only harm the victim of sexual harrashment and bullying, but also diminishes the reputation of the abuser, the firm where the abuser works, the integrity and prestige of the legal profession in Nigeria and the reputation of the Nigeria Bar Association

ALARMED by the International Bar Association report of May, 2019 on Bullying and sexual harrashment in the legal profession, which shows that 28 % of legal practitioners in Africa were sexually harassed and 52 % were victims of bullying, whilst in 57.5% in South Africa were sexually harassed and 27.5% were victims of bullying and

DETERMINED to have zero tolerance for all forms of sexual harrashment and bullying in the legal profession in Nigeria,

DO HEREBY make and give to ourselves this sexual harrashment and bullying policy:

GENERAL PROVISIONS

PART 1

1. This sexual harrashment and bullying policy shall have binding effect on all members of the Nigeria Bar Association.

2. The provisions contained herein shall have binding effect on all 128 branches of the Nigeria Bar Association.
3. All law firms and association of lawyers shall within two months of this policy coming into effect formulate a sexual harrassment and bullying policy which shall be modelled after this policy. All law firms and association of lawyers shall also within the same time frame, designate the head of human resources (and where there is no head of human resources) appoint a staff who shall be the complaint officer to receive all complaints of sexual harrassment or bullying.
4. The Secretary of the 128 branches of the Nigeria Bar Association shall be responsible for receiving complaints from members of their respective branches.
5. The General Secretary shall be responsible to receive reports from branches on all cases of sexual harrassment and bullying.
6. If any of the policies envisaged in section 3 above is inconsistent with the provisions of this policy, such policy shall be null void and this policy shall prevail.
7. This policy shall have no retroactive effect.
8. This policy shall come into effect on the day it is adopted by the NEC and signed by the NBA president.

DEFINITION SECTION

PART 2

1. Sexual Harrashment:

Sexual harassment includes a range of actions from verbal transgressions to [sexual abuse](#). This can occur in different forms and can include any of the following;

- a. Sexual or offensive images in public spaces;
- b. Stalking, filming, photographing or recording a person against the person's will. sustained disruption of talks or other events;

- c. Offensive, humiliating or degrading verbal comments or behaviour of a sexual nature including in relation to a person's dress or appearance;
- d. Inappropriate and unwanted physical contact, and unwelcome sexual attention or advances which could include touching, pinching, pushing, grabbing or leering or forced fondling;
- e. Continued suggestion of social activity or continued contact after it has been made clear that such suggestions are unwelcome, following or stalking;
- f. Teasing, jokes and innuendoes of a sexual nature or flirting;
- g. The use of explicit or implicit sexual overtones, including the unwelcome and inappropriate promise of rewards in exchange for sexual favors.
- h. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment;
- i. Such unwelcome sexually determined behavior as physical contact and advances, sexually colored remarks, showing pornography and sexual demands, whether by words or actions; conduct that is sexually discriminatory when the victim has reasonable ground to believe that his / her objection would disadvantage him / her in connection with his / her employment, including recruitment or promotion, or when it creates a hostile working environment;
- j. Conduct is considered sexual harassment if it is unwanted, improper or offensive; if the victim's refusal or acceptance of the behavior influences decisions concerning her employment or the conduct creates an intimidating, hostile or humiliating working environment for the recipient;
- k. any conduct, comment, gesture or contact of a sexual nature that is likely to cause offence or humiliation to any colleague; that might, on reasonable grounds, be perceived by that colleague as placing a condition of a sexual nature on employment or on an opportunity for training or promotion.
- l. Any conduct explicit or implicit conduct of a sexual nature which is repeated, unwanted, deliberate not mutual or returned, the victim has expressly objected to the conduct and such conduct makes the victim uncomfortable.

m. Rape or other forms of sexual assault.

2. Bullying:

In this policy, bullying can mean any or a combination of the following;

- a. Sexist, ethnic or other exclusionary or offensive jokes and expletives, mocking or belittling a colleague due to disability, circumstances of their birth, social, financial or political standing;
- b. Offensive stereotypical remarks due to a colleague's gender and physical attributes;
- c. Physical assault, verbal attacks and name calling, social isolation and cyberbullying (creating and sending harmful, threatening, demeaning pictures, online content, photos or messages using a mobile phone or other internet enabled devices) which makes the victim feel worthless, unwanted or good – for – nothing.
- d. Deliberate aggressiveness and marked inequality in terms of power or influence;
- e. A wilful, conscious desire to hurt a colleague and put him / her under stress. The stress is created not only by what actually happens but also by fear of what might happen. This shall include harsh teasing, constant criticism, insults, gossip, and unreasonable demands;
- f. Ongoing and purposeful physical or emotional torment of a colleague;
- g. Bullying is the activity of repeated, aggressive behavior intended to hurt another individual, physically, mentally, or emotionally;
- h. Bullying occurs when a colleague is exposed, repeatedly and over time, to negative actions on the part of one or more colleagues, and that negative actions occur when a person intentionally inflicts injury or discomfort upon another person, through physical contact, through words or in other ways;
- i. Offensive, humiliating, intimidating or degrading verbal comments or behaviour related to gender, disability, physical appearance, body size, age, ethnic group, colour, religion or belief or marital status

NATURE OF SEXUAL HARRASSMENT AND BULLYING

PART 3

1. Nature of Sexual Harrashment:

While sexual harrashment exists in different forms, this policy identifies two forms, but shall in giving effect to this policy look at each situation on a case by case basis. The two forms are;

a. Quid Pro Quo:

Quid pro quo is a Latin term which means “for this for that” or “something for something” and refers to an exchange. In this case, the exchange is between colleagues, where one colleague provides sexual favors in exchange for something else, such as employment, favorable treatment in work assignments, pay, training opportunities or promotion. *Quid pro quo* sexual harassment occurs when employment decisions and conditions are based upon whether as colleague is willing to grant sexual favors. Hiring, promotions, salary increases, shift or work assignments, and performance expectation are some of the working benefits that can be made conditional on sexual favors.

b. A Hostile Work Environment

This is one in which unwelcome conduct of a sexual nature creates an uncomfortable work environment for some colleagues. Examples of this conduct include sexually explicit talk, sexually provocative photographs, foul or hostile language or inappropriate or unwelcomed physical contact.

2. Nature of Bullying:

Bullying can exist in the following forms;

- a. Physical Bullying:** These are the easiest to identify. They include hitting, shoving, or kicking a colleague or by damaging their property.

- b. **Verbal Bullying:** The use of words to hurt and humiliate a colleague, through either name-calling, insults, or persistent, harsh teasing or treatment.
- c. **Relationship Bullying:** Spreading nasty rumors about a colleague, knowing same to be false, but calculated to create harm or offence.
- d. **Reactive Bullying:** This occurs when a bullied colleague turns another colleague into a target of bullying because they have been bullied themselves.

PARTIES UNDER THIS POLICY

PART 4

In all cases of complaints arising from the policy, the following shall be proper parties;

- a. Peer versus Peer
- b. Subordinate versus supervisor or vice versa
- c. Principal of a firm versus partner in the firm or vice versa
- d. Principal of a firm versus subordinate or vice versa
- e. Partner versus partner
- f. Partner versus senior / other associates of a firm
- g. Same sex harrashment by colleagues
- h. Legal practitioner versus non – legal staff of a firm or vice versa
- i. Legal practitioner versus clients, customers, vendors, and suppliers or vice versa.
- j. Intern verse principal, partner, senior associate or associate

PROCEDURE FOR REPORTING SEXUAL HARRASHMENT AND BULLYING

PART 5

All complaints arising from this policy must follow the steps stated below in the investigation to determine the veracity of any and all claims of sexual harrashment and bullying;

1. In the first instance, all complaints should be made to the complaints officer (who shall be a lawyer) in the firm where the parties work.
2. If the firm has less than 8 lawyers, the complaint shall then be made to the secretary of the nearest branch of the Nigeria Bar Association.
3. All complaints shall be in the form of an affidavit stating all material facts and attaching supporting exhibits (if any).
 - a. Upon receipt of the complaint, the complaint officer shall within 24 hours make a record of the complaint in a book (which shall be called “complaint ledger”), and forward same to the Head of the firm.
 - b. The Head of the firm shall within 48 hours of the receipt of the complaint, set up a 3 person investigation committee (at least one of which must be a woman), to dispassionately investigate the complaint.
 - c. The investigation committee shall forward a copy of the complaint to the alleged harrasher, who shall within 48 hours respond to the complaint with supporting exhibits (if any) in the form of an affidavit. There shall be no extension of time.
 - d. When the committee receives the response, it shall within 2 weeks from the date of receipt of the response invite the parties to state their case and make a determination of the complaint.
 - e. The committee shall maintain accurate records, including the use of either audio and / or video records.
 - f. The decision reached by the committee shall within 48 hours of its determination, be forwarded to the head of the firm, who shall act upon the decision not later than 72 hours of receiving the decision. This decision shall be copied to the secretary of the nearest branch of the Nigeria Bar Association, who shall have the responsibility to monitor the implementation of the decision.

- g. The following shall amount to gross misconduct in a professional respect;
- i) Refusal of the complaint officer, head of the firm and members of the investigation committee to comply strictly with the provisions of this policy.
 - ii) Any attempt by the complaint officer, head of the firm or members of the investigation committee to silence the complainant (by way of persuasion, threats, termination of appointment, coercion etc), destroy or hide evidence or aid the alleged harasser in any way.
 - iii) Any complaint found to be false after investigation and;
 - iv) If the complaint is meritorious.

Complaints to the Branch Secretary

- 4. All complaints and responses made by parties to any complaint under this policy shall be in the form of an affidavit, with supporting exhibits (if any).
- 5. It shall be the duty of the Branch Secretary to receive complaints from all lawyers, support staff / vendors / clients & contractors in a firm with less than 8 lawyers. He or she shall also receive complaints from any lawyer, support staff within a law firm, client, contractor or vendor within the jurisdiction of his / her branch who alleges that he / she has been sexually harassed or bullied by a lawyer in his or her branch jurisdiction.
- 6. Upon receipt of any complaint, the branch secretary shall take the following steps;
 - a. Shall within 24 hours make a record of the complaint in a book (which shall be called “complaint ledger”), and forward same to the Branch Chairman.
 - b. The Branch Chairman, shall within 48 hours of the receipt of the complaint, set up a 3 person investigation committee (two of which must be women in respect of a complaint by a female lawyer and two

men in the case of a complaint by a male lawyer), to dispassionately investigate the complaint. This membership of this committee shall be persons of high moral integrity, two of which shall be young lawyers. The branch secretary shall be the secretary of the committee.

- c. The investigation committee shall forward a copy of the complaint to the alleged harrasher, who shall within 48 hours respond to the complaint with supporting exhibits (if any) in the form of an affidavit. There shall be no extension of time.
- d. When the committee receives the response, it shall within 2 weeks from the date of receipt of the response invite the parties to state their case and make a determination of the complaint.
- e. The committee shall maintain accurate records, including the use of either audio and / or video records.
- f. The decision reached by the committee shall within 48 hours of its determination, be forwarded to the Branch Chairman, who shall act upon the decision not later than 72 hours of receiving the decision. This decision shall be copied to the General Secretary of the Nigeria Bar Association, who shall have the responsibility to monitor the implementation of the decision.
- g. The following shall amount to gross misconduct in a professional respect;
- h. Refusal, neglect or failure of the branch secretary, branch chairman and members of the investigation committee to comply strictly with the provisions of this policy.
 - ii. Any attempt by the branch chairman, branch secretary or member (s) of the investigation committee to silence the complainant (by way of persuasion, threats, coercion etc), destroy or hide evidence or aid the alleged harrasher in any way.
 - iii. Any complaint found to be false after investigation and;
 - iv. If the complaint is meritorious.

PUNISHMENT

PART 6

1. Where a complaint in respect of sexual harrashment is found to be credible, the harrasher shall be liable for gross misconduct in a professional respect and the punishment specified in the rules of professional conduct shall apply. Notice of this indictment shall be sent to all branches of the Nigeria Bar Association, the Chief Registrar of the Supreme Court, the President of the Court of Appeal, the Chief Judges of the 36 states and their Chief Registrars.
2. Where a complaint in respect of bullying is found to be credible in the first instance, the bully shall receive a strong reprimand in writing, shall write a letter of apology to the complainant and copy the complaint officer of the law firm or the branch secretary as the case may be. The same shall also apply to all branch executives, Chairmen and members of all Nigeria Bar Association sections, forums, committees and National officers of the NBA.
3. When a legal practitioner who has been found culpable of bullying a colleague in the first instance, repeats same and the complaint is found to be credible, the legal practitioner shall be suspended from practice for a period not less than 6 months. Notice of this suspension shall be sent to all branches of the Nigeria Bar Association, the Chief Registrar of the Supreme Court, the President of the Court of Appeal, the Chief Judges of the 36 states and their Chief Registrars.
4. Where the legal practitioner found culpable of sexual harrashment or repeat bullying, is a Senior Advocate of Nigeria (SAN), such a silk shall be stripped of the rank.
5. When a legal practitioner is found culpable of sexual harrashment and bullying, the Nigeria Bar Association shall decline to recommend the legal practitioner for the rank of Senior Advocate of Nigeria.
6. Where the legal practitioner found culpable of sexual harrashment or repeat bullying is a branch executive or national officer of the Nigeria Bar Association, the legal practitioner shall automatically cease to hold such office.
7. If the legal practitioner found culpable of sexual harrashment or repeated bullying is a chairman, secretary or member of any committee, department, forum or section of the Nigeria Bar Association, such a legal practitioner shall cease to hold office.

8. When a complaint officer, head of firm, investigation committee member, branch chairman, branch secretary or general secretary refuse, fail or neglect to strictly abide by the provisions of this policy or attempt to silence the complainant, hide or destroy evidence, they shall be liable for gross misconduct in a professional respect. The punishment specified in the rules of professional conduct shall apply.

APPEALS

PART 7

1. All appeals from law offices shall lie to the branch investigation committee (who shall be seating as an appeal committee).
2. All appeals from the branch investigation committees shall lie to the Legal Practitioners Disciplinary Committee.

MISCELLANOUS PROVISIONS

PART 8

1. It shall be the compulsory for every legal practitioner in Nigeria to have a copy of this policy. On every Call to Bar ceremony, a copy shall be made available to all new wigs at a cost.
2. All law firms in Nigeria, branches, forums and sections of the Nigeria Bar Association, shall from time to publicize this policy and put same on the front burner.
3. At every branch, forum or section of the Nigeria Bar Association law week or annual conference, a slot shall be allocated for anti – sexual harrashment and bullying. This part shall be attended by all legal practitioners in a joint session.
4. It shall be the duty of the President of the Nigeria Bar Association, to include a discussion on anti – sexual harrashment and bullying at every NEC meeting.

5. The President of the Nigeria Bar Association shall liaise with the Council for Legal Education, to include this policy as part of the course on Law in Practice or Professional ethics.
6. It shall be the duty of every legal practitioner in Nigeria to report any case of sexual harrassment they witness or have credible evidence of.

Prepared By:

The National Welfare Committee 2022 - 2024