

NATIONAL SOCIETY OF INTIMACY PROFESSIONALS
**MEMBER COMPLAINT &
ACCOUNTABILITY
PROCESS**

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NSIP
NATIONAL SOCIETY OF INTIMACY PROFESSIONALS

PURPOSE

Members of NSIP are professionals who aspire to best practises in their craft. If conflict or behaviour does not meet this professional standard, NSIP is committed to addressing unprofessional member behaviour, and when necessary, investigating alleged infringements and assisting in resolution.

This document sets out NSIP's policy and response procedures to harassment, including sexual harassment, and ensures that those who experience harassment have their rights respected.

JURISDICTION

To be covered under this policy, incident/s of harassment must occur by a member in good standing of NSIP, while engaged on an intimacy contract. Incident/s that happen outside the workspace may not be considered part of NSIP's jurisdiction.

NSIP's Complaint and Accountability Process covers formal complaints made against members for:

any form of discrimination or oppression

bullying and/or harassment

acts of violence

reprisal which includes defamation and/or retaliation

abuse of position of power (or perceived position of power)

not adhering to conditions of an accountability process

Note: if you are a student of NSIP or instructor of NSIP, please refer to the NSIP Anti-Harassment Policy - Teacher & Student

Statute of Limitations

Incidents that occurred previous to a member joining NSIP will not be considered under the NSIP jurisdiction. A formal complaint made against a member must be made within two (2) years of the incident taking place. Where it appears that the nature of the complaint is such that outside authorities, such as the police, ought to be notified, the Complainant will be advised. There is no deadline for filing a formal complaint made against a member regarding sexual violence.

Criminal Charges and Conviction

If a member has been found guilty via legal proceedings sexual/physical abuse and/or sexual harassment or a case where a criminal charge has been laid the NSIP board will be notified and have the authority to expell the member without further investigation.

Contacting with the Engager/Production Company

NSIP's Complaints and Accountability Process is for unprofessional member behaviour and is not intended to respond to immediate workplace issues. Issues happening on a contract should be brought to the attention of the Engager/Production Company and follow their company complaint and human resource process (the theatre, production

Confidentiality

All members of the NSIP community who are involved in the complaint will treat the matter as discreetly and confidentially as practicable, within the context of their roles in implementing this policy. Confidentiality of the individuals involved in the complaint is critical throughout the accountability process and after resolution. Information will only be shared to the extent necessary to carry out responsibilities under this policy or as required to provide a fair process during the investigation and decision-making process. However, confidentiality does not mean anonymity.

A fundamental principle of fairness in a formal complaint proceeding is that the accused (Respondent) must knowably address the details of a formal complaint against them, which involves informing them of the Complainant's identity of the Complainant/s. Anyone who agrees to be part of any formal complaint process can not be anonymous to the Respondent. To further clarify, the following complaint details must be provided in a report: date, names of persons involved, detailed description of the situation, and any witnesses.

While the investigation is ongoing, the Complainant, the Respondent, and any witnesses should refrain from discussing the incident, complaint, or the investigation with anyone unless necessary to obtain advice about their rights. This includes any public posts on social media and news releases.

Commitment

Any form of harassment will not be tolerated. All reported incidents of harassment will be addressed in a manner that ensures a fair process, and those who use this policy should feel comfortable making a report if they have experienced harassment. NSIPs complaint and accountability process is for unprofessional member behaviour and is not intended for responding to immediate workspace issues. Engagers are responsible for addressing, investigating and resolving workplace issues under provincial labour law.

NSIP is committed to:

- Assisting those who have experienced harassment by providing resources including;
- detailed information and support, such as referral to counselling;
- appropriate accommodations if needed, such as separate committees/board work;
- Ensuring that all involved in the process have a right to dignity and respect throughout the process of disclosure, investigation and response; and
- Ensuring that there is a safety plan and that all reasonable and necessary actions are taken to prevent further unwanted contact with the alleged harasser(s) or complainants.

Complaint Process

Step 1: Filing a Formal Complaint Against a Member

If the resolution of a complaint can not be found through the Producer or by other means, then a formal complaint against a member may be filed with NSIP. Anyone can file a formal complaint against a member provided that they were working with an intimacy professional under contract and that the incident occurred in the workspace.

Anyone who makes a formal complaint is called the **Complainant**. The member subject to the formal complaint is called the **Respondent**.

How to File a Formal Complaint

The Complainant/s must report incidents in writing. They should include the following information:

- Name(s) and contact information of the Complainant
- Name(s) and contact information, if available, of the alleged Respondent(s)
- Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known)
- Details of what happened, including date(s), frequency and location(s) of the alleged incident(s)
- Any supporting documents the Complainant may have that are relevant to the complaint (e.g., emails, texts, etc.).

This first document will not be the only opportunity for the Complainant to provide additional facts, witnesses or information in the formal complaint process. Timeframes will be laid out at the start of the process to provide any additional information.

Where to File a Report

An incident or complaint of harassment should be reported directly to NSIP's Harassment representative who is a member of the Board of Directors. The Harassment Representative is the NSIP Board member who administers all formal complaints and is the point person for anyone included in the formal complaint process including the:

- Complainant
- Respondent
- Third-Party Investigator
- Mediator
- Accountability Panel
- Appeal Panel
- Board of Directors

The Harassment Representative can be reached via email at vicechair@intimacysociety.com. If the Harassment Representative has a conflict of interest or is the Respondent, the individual should report the complaint to the chair of the Board of Directors via email at chair@intimacysociety.com. If the Complainant feels that neither of the person's listed above are free of conflict of interest, the Complainant can choose to email any person on the Board of Directors.

Step 2: Formal Complaint Review by Board of Directors

The information provided by the Complainant in their formal complaint must demonstrate that:

The complaint falls within NSIP's jurisdiction, pursuable under NSIP's existing bylaws, and;

The complaint has a reasonable prospect for resolution or finding of fault through further investigation.

The Board has grounds to dismiss the complaint if either i), ii) or both have not been demonstrated.

Step 3: Creation of Accountability Panel and Support

Once the Board of Directors accepts the formal complaint for further action they will direct the creation of an Accountability Panel. The Harassment Representative who oversees the Accountability Panel, will:

- Select a minimum of three (3) Board members to serve as the Accountability Panel
- At the Board's discretion, consider including other member(s) appropriate to the nature of the complaint, including fair representation of discipline, diversity, and region.
- The Harassment Representative will contact each volunteer and vet for conflict of interest.
- It is the responsibility of a potential panel member to be transparent about any bias or perceived conflict of interest that may impede their fair judgement.

The Complainant and Respondent are entitled to know who is on their Accountability Panel. If either person feels that a member of their panel has bias or a conflict of interest the Complainant or Respondent may request a new panel member. They will be notified of the members on their Accountability Panel as soon as they are added.

Should a conflict of interest concern be raised by either the Complainant or Respondent, they shall submit their objection in writing to the Harassment Representative before the Third Party Investigator or Accountability Panel begin their investigation.

Should the Complainant or Respondent raise a conflict of interest concern during the investigation, they shall submit their objection in writing to the Harassment Representative. The Harassment Representative will brief a new panel member to replace the person with the conflict of interest.

Accountability Panel Format

The Accountability Panel will set timelines and not allow unnecessary delays to support the one-year deadline to resolve the formal complaint.

A list of support and counselling resources will also be offered to both parties involved in the complaint.

Step 4: Notification to the Complainant of the Board's Decision

Within seven (7) business days, The Harassment Representative will give written notice to the Complainant of the Board's decision to create an Accountability Panel including:

- The communication requirements;
- Notice that the Respondent will be notified of the formal complaint against them within fourteen (14) business days, and;
- Notice that the Respondent has twenty-one (21) business days to respond to NSIP in writing.

Step 5: Notification of the Respondent of the Board's Decision

Within fourteen (14) business days, The Harassment Representative will contact the Respondent via phone call to determine the appropriate time for the Respondent to receive an email of sensitive nature to mitigate negative impact to the Respondent. The Harassment Representative will then give written notice to the Respondent of the Board's decision to establish an Accountability Panel for the purpose of addressing complaint including:

- The communication requirements;
- A copy of the formal complaint statement and names of Complainant(s);
- Details regarding any expectations of conversations or meetings that are asked of the Respondent;
- Transparency of who will be in the meeting;
- Offer of mediation;
- Offer that they may bring a support person;
- An explanation that the consequence for failure to respond to the formal complaint/s or attend a meeting set by the Accountability Panel is the removal of membership;
- Membership will not be contested until final decision of the Accountability Panel and approval of the Board of Directors has been issued;
- If there is accusation of legal allegations, where criminal charges are pending, membership suspension or revocation will be at the discretion of the Board of Directors.

The Respondent has twenty-one (21) business days upon receipt of The Board's decision to respond to the Harassment Representative. The response must:

Confirm all current contact information;

Indicate whether they are contesting the allegations in the complaint;

Respond to each allegation in the complaint;

Include any additional facts, or information.

The Respondent is not obligated to provide a response to the allegations. If the Respondent chooses not to respond, the Accountability Panel may:

Deem the Respondent to have accepted all the allegations in the complaint, waiving their rights with respect to further notice or participation in the process;

Base their decision on material provided or available to them.

It is the sender's responsibility to ensure that time-sensitive communication is verifiably received by any applicable deadline.

Step 6: Response to the Formal Complaint

Once the Harassment Representative receives written acknowledgment from the Respondent, The Harassment Representative shall provide a copy of that written response to the Complainant, and the Accountability Panel within seven (7) business days.

In cases where the Respondent offers no response to the formal complaint, after twenty-one (21) business days from the date of verified delivery, the Harassment Representative will proceed to notify the Accountability Panel that there has been no response from the Respondent.

Involvement of a Third Party Investigator

Upon reviewing the Complainant's written report the Board of Directors, will determine whether appointing a third party investigator is warranted. A Third Party investigator is a qualified impartial outside investigator who is not a NSIP Member, a Board Member or NSIP staff member. The Board at its sole discretion may choose to engage a Third Party Investigator.

If a Third Party Investigator is engaged, the Harassment Representative will send their contact information to the Respondent and the Complainant as soon as possible.

Step 7a: Accountability Panel Format without a Third Party Investigator

The Accountability Panel may decide to proceed without a Third Party Investigator. In this case the Accountability Panel would hear the complaint itself. The Accountability Panel may decide to use any of the following or a combination of:

- Working in conjunction with the Harassment Representative to notify the Complainant and Respondent and any witness with sufficient notice in order to participate in the complaint process;
- Receiving written submissions and/or other documentation of information from the Complainant, Respondent and any witnesses;
- Holding a meeting or multiple meetings to hear directly from the Complainant, Respondent and any witnesses, in person, via video conferencing or phone;
- Consulting with experts to provide clarification and/or context to the complaint.

The Complainant and Respondent may be represented at any meeting by a person of their choice, but that person must be presented to the Harassment Representative in advance. These representatives shall participate at the Respondent's or Complainant's own expense.

The Respondent is not obligated to appear at, have representation at, or provide a submission to the Accountability Panel. However, where no response is put forward by a Respondent, any allegations may be accepted, and the Accountability Panel may proceed to decide the matter on the basis of available information.

Step 7b: Use of a Third Party Investigator by the Accountability Panel

The Third Party investigation will:

- Include a minimum of (1) one individual interview with the Complainant and Respondent either verbally or in person to gather their information and ask questions to clarify the complaint;
- Conclude with a report of their findings provided to the Accountability Panel.

The Third Party investigation may also:

- Question any witnesses about the facts of the complaint verbally or in person;
- Gather additional information from the Complainant, Respondent or witnesses through written submissions and/or other documentation;
- The Respondent is not obligated to appear at, have representation for, or provide information to the Third Party Investigator. In this case the Accountability Panel will proceed to decide the matter based on available information.

Third Party Investigator Timelines

If a Third Party Investigator has been engaged they will conduct an investigation on behalf of the Accountability Panel and provide a report with their findings at the conclusion of their investigation. They will coordinate and communicate with the Harassment Representative and the Accountability Panel throughout their investigation.

The Third Party Investigator

Will have ninety (90) business days to complete their investigation;

May request an extension by writing to the Accountability Panel;

An extension request must include grounds, and a new deadline must be given;

Any extension deadlines will be communicated to all parties in a timely manner via email.

Investigation

The Investigator will conduct the investigation in a manner befitting the Investigator's experience and recommendations with such matters, with the following guidelines:

1. The Investigator will ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The Investigator will remind individuals contacted during this process that the process is confidential. The Investigator will keep confidential the personal information of the people contacted.
2. The Investigator will interview the Complainant and the Respondent separately.
3. The Complainant and/or Respondent may decide not to participate in the investigation. However, the investigation may continue without either party's involvement.
4. The Investigator will provide the Respondent with a reasonable opportunity to respond in writing or verbally to the allegations. If the response is verbal, the Investigator will confirm the content of the response with the Respondent in writing. If the Respondent does not respond within a reasonable timeframe set by the Investigator, or chooses not to participate in the investigation, the Investigator may proceed in the absence of their response.
5. The Investigator will interview any relevant witnesses in the NSIP community who may be identified by either the Complainant or the Respondent or as necessary to conduct a thorough investigation. The Investigator will make reasonable efforts to interview any relevant witnesses who are not members of the NSIP community if there are any identified.
6. Any individual interviewed in the investigation process, including the Complainant and Respondent, has the right to have an additional person present during the interview.
7. The Investigator will collect and review any relevant documents.
8. The Investigator will take appropriate notes and statements during the interviews.
9. While the investigation is ongoing, the Complainant, the Respondent and any witnesses must not discuss the incident or complaint or the investigation with other individuals unless necessary to obtain advice about their rights. The Investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation.
10. A Complainant has the right to withdraw a complaint at any stage of the process. However, RCPA may continue to act on the issue identified in the complaint in order to comply with its obligation under this Policy and/or its legal obligations.
11. The Investigator will prepare a written report summarizing the steps taken during the investigation, the complaint,

the allegations of the Complainant, the response from the Respondent, the information of any witnesses, and the information gathered. The report will set out findings of fact and come to a conclusion about whether, on a balance of probabilities, harassment occurred.

Investigator's Report

Within ten (10) business days of the investigation being completed, the Investigator will submit their written Investigator's Report. If an external Investigator was hired they will provide the Harassment Representative with the report. The Complainant and the Respondent will be informed in writing of the results of the investigation, and optionally an executive summary, but they will not be sent the full Investigator's Report.

Timeline

The Accountability Panel will set timelines for any meetings in their investigation and;

- Will provide the Complainant and Respondent with at least thirty (30) days notice of the time and place of the meeting and the deadline by which to submit written information and other documentation, including that of any relevant Witnesses.
- Will have ninety (90) days to conclude their investigation and meetings, and submit their report to the Harassment Representative to submit to Council.
- May request an extension by writing to the Harassment Representative including grounds for the extension and a proposed new deadline.

Option for Mediation

In some cases, a Third Party Investigator or the Accountability Panel may find that mediation is a viable option for resolution. Mediation must be agreeable to both the Complainant and the Respondent. The Third Party Investigator will submit a recommendation to the Accountability Panel through the Harassment Representative. If both parties agree, then the Complaints Manager in coordination with the Third Party Investigator shall engage a mediator. The Harassment Representative will inform the Board of Directors of the option to pursue mediation.

The mediator will provide a timeline to the Accountability Panel and make a final report in writing within thirty (30) days of the conclusion of mediation, summarizing all points of agreement, and signed by the Complainant and Respondent. The Harassment Representative will ensure that a copy of the report is provided to the Accountability Panel.

If the mediation is not successful in providing resolution, the matter will return to the Third Party Investigator, or Accountability Panel to resume investigation. New timelines will be established and communicated to the Board of Directors.

Step 8: Accountability Panel Deliberation, Decision and Remedies

Whether the Accountability Panel investigated the complaint itself or with the report from a Third Party Investigator, the Accountability Panel will take all information presented in the investigation under consideration for their deliberation, decision and remedy.

The Accountability Panel will endeavour to make a unanimous decision, but if consensus cannot be reached the Accountability Panel will decide by a majority vote of fifty percent of the Accountability Panel plus one (50%+1).

- The Accountability Panel may impose the following remedies;
- No sanction;
- Solicit and consider a restorative process proposal from the Complainant;
- Steps for action towards reparation through restorative process;
- Suspension;
- A fine in an amount not exceeding \$5,000.00, with terms for payment, or;
- Expulsion from the Society

Restorative Process

The Accountability Panel will determine if there is to be a restorative process proposal in addition to, or as an alternative to, any penalty. Any restorative process proposed must be reasonable and appropriate to the offence and be accepted by all parties before it can proceed.

Failure for the Complainant, the Respondent and the Accountability Panel to jointly agree on terms for a restorative process proposal, or failure of the Respondent to satisfy the terms of the accepted proposal, will result in the application of the penalty chosen by the Accountability Panel.

The Respondent must:

- Acknowledge their role in the harm caused;
- Include some form of reparation to address that harm
- Agreement to further training to support the incident not occurring again

Appeal Process

If the Complainant or the Respondent are dissatisfied with the outcome of the Accountability Panel either may appeal to Council by submitting in writing to the Harassment Representative within thirty (30) business days after receiving notice of the decision. The appeal request must include one of the following reasons;

- The Third Party Investigator and/or Accountability Panel did not provide an impartial investigation or a reasonable opportunity for the presentation of the Appellant's complaint or defense;
- The Accountability Panel based their recommendation on facts that were not in information, did not follow the procedures provided for in the bylaws, or otherwise materially erred in its procedure;
- The decision contains an obvious material error;
- There is new information available at the time of filing the appeal, that was not available or could not reasonably have been obtained at the time of the investigation, or;
- The penalty imposed was either insufficient or excessive.

The Harassment Representative will deliver the Appellant's request with identifying information removed to the Board of Directors at its next regularly scheduled meeting. The Board as a whole will consider the grounds for the appeal. The Board may, in its sole discretion, dismiss the appeal request or consider the appeal at their next regularly scheduled meeting. The Harassment Representative, nor any other members of the Accountability Panel will not chair that portion of the meeting, nor will they participate in the vote or the debate. The Chair of the Board shall provide prompt notice to the Appellant through the Harassment Representative of their intent to address the appeal. The notice shall outline a timeline.

The Appeal will be heard by all present members of The Board except those who composed the Accountability Panel or any other Board member who declares a conflict of interest.

Prior to meeting the appeal the Harassment Representative will provide Council with the following:

- an unredacted copy of the Complainant's original formal complaint;
- an unredacted copy of the Respondent's original response to the complaint;
- a copy of the Accountability Panel's unredacted report to the Board;
- a copy of the Third Party Investigator's report, if one was used; and
- any other correspondence or documentation deemed relevant by the Accountability Panel, the Third Party Investigator or the Harassment Representative.

Step 1: Council's Decision on the Appeal

The Board may by majority vote:

- Uphold the decision of the Accountability Panel, and dismiss the appeal
- Appoint a new Accountability Panel or a Third Party Investigator
- Alter the penalty imposed by the Accountability Panel.

Step 2: Notification to the Appellant

The Board shall deliver a copy of its report to the Harassment Representative for conveyance to the Appellant/s. The Board's Appeal decision is final and binding.

Step 3: Notice to Membership

Following the expiry of the deadline for launching an appeal of the Accountability process or after an Appeal process has concluded, the Board may choose, depending on the situation and case, to publish a brief notice to the membership, providing general non-identifying information on the complaint and its disposition. In the case of expulsion from membership in the Society, it is at the Board's discretion if the Respondent will be identified in a notice to membership. In all cases sensitivity to all persons involved in the matter must be considered and the focus of membership will be on how our society can mitigate these issues in future.

Definitions

1. Age of Consent

Youths sixteen (16) and seventeen (17) years old may legally consent to sexual acts with someone who is NOT in a position of trust or authority. It is illegal for anyone in a position of authority to engage in sexual conduct with anyone of or under the age of eighteen (18).

2. Personal Harassment

Personal harassment means engaging in a course of vexatious comment or conduct that is unwelcome or hurtful. This includes comments or conduct on any grounds that:

Causes humiliation, offence or embarrassment for someone;

Has the purpose or effect of unreasonably interfering with someone's work; or

Creates an intimidating, humiliating, hostile or offensive work environment for someone.

Ordinarily, repeated comment or conduct is required to demonstrate harassment, however single acts of sufficient severity may also constitute harassment. A person does not have to be the direct target of harassing behaviour to be adversely affected by it. Bullying (in any form) is a type of personal harassment.

3. Sexual Harassment

Sexual harassment is harassment of a sexual nature. It includes:

- Engaging in a course of vexatious comment or conduct related to a person's sex, sexual orientation, gender identity or gender expression, that is known or ought reasonably to be known to be unwelcome or hurtful; or
- Making a sexual solicitation or advance where:
 - the person making the solicitation or advance is in a position to confer, grant or deny a benefit, opportunity or advancement; and
 - the recipient could reasonably understand the solicitation or advance and the potential for benefit or disadvantage as being connected.

Ordinarily, repeated comment or conduct is required to demonstrate harassment, however single acts of sufficient severity may also constitute sexual harassment.

4. Coercion

In the context of sexual violence, coercion is unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, threats to family or friends, or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts.

5. Consent

The voluntary and explicit agreement to engage in the activity in question. It is the act of willingly agreeing to engage in a specific behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words which indicates a willingness to participate in the mutually agreed upon activity.

- Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.
- A person is incapable of giving consent if they are asleep, unconscious or otherwise unable to communicate.
- A person who has been threatened or coerced (i.e. is not agreeing voluntarily) into engaging in the activity is not consenting to it.
- A person may be unable to give consent if they have a mental disability preventing them from fully understanding what they are consenting to.
- The fact that consent was given in the past does not mean that consent is deemed to exist for future activity.
- A person can withdraw consent at any time.
- A person is incapable of giving consent to a person in a position of trust, power or authority.
- Consent cannot be given on behalf of another person.

6. Discrimination

Discrimination is the unfair or prejudicial treatment of people based on their personal characteristics. Legislation, federally and in each province or territory, details the grounds on which workplace

discrimination is prohibited. The grounds most commonly-cited in these documents are:

- National or Ethnic Origin
- Colour
- Religion
- Age
- Sex
- Sexual Orientation/Attraction
- Marital Status
- Family Status
- Disability
- A conviction for which a pardon has been granted or a record suspension has been ordered

Where applicable legislation or an NSIP agreement adds to these grounds, then those will also apply.

7. Racism and Discrimination

In this policy, the term “racism” broadly includes any act of discrimination or harassment in which race is a factor.

- Racial Discrimination includes any action, intentional or not, that has the effect of singling out persons based on their race, and imposing burdens on them and not on others, or withholding or limiting access to benefits available to other members of society, in areas covered by the Code. Race only needs to be one factor in a situation for racial discrimination to have occurred.”
- Racial Harassment is a form of racial discrimination and can include comments, jokes, name-calling, display of pictures or behaviour that insults, offends or puts a person down because of their race and other related grounds.
- Systemic racism or discrimination includes policies, practices, procedures, actions or inactions that may appear neutral, but which effectively create conditions of discrimination or harassment. These practices are often embedded in the “ordinary practices” of an institution or sector, even if the injury or disadvantage may not be immediately evident to an affected community or person.

These terms are based on material published by the Ontario Human Rights Commission, but are common to many similar bodies.

8. Abuse of Position of Power or Perceived Position of Power

Abuse of Power is the use of one’s formal or informal position of authority in a way that could include manipulating or coercing someone with the ability to punish them, or undermine them or the performance of their work. This applies also in cases where the target of the abuse believes the abuser to have that power.

This term is based on material published by the Government of Canada’s Harassment tool.

9. Reprisal

Reprisal is any action or threat that is intended as retaliation or punishment for:

- Reporting or speaking up about inappropriate behaviour;
- Participating in an investigation relating to such a report, including as a witness;
- Not complying with the desired wishes of the abuser.

Reprisal also includes any preemptive action or threat designed to dissuade someone from taking any of these steps to deal with an issue.