



January 31, 2020

BOARD OF EXAMINERS OF BAR PILOTS FOR THE PORT OF NEW ORLEANS
POLICY AGAINST SEXUAL HARASSMENT

Promulgated on January 31, 2020

The Board of Examiners of Bar Pilots for the Port of New Orleans was established by La. R.S. 34:941 et al. and is charged with establishing standards of conduct for bar pilots.

1. INTRODUCTION

- a. In accordance with its duties under La. R.S. 34:941 et seq., the Board of Examiners for the Port of New Orleans (hereinafter "Board of Examiners" or "Board") holds the opinion that unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature constitute sexual harassment when the conduct explicitly or implicitly affects an individual's employment or holding of office, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment and shall not be tolerated.
- b. The Board of Examiners seeks to comply with the requirements of the provisions of Act. No. 270 of 2018 enacting La. R.S. 42:341 through 345 expressing the State of Louisiana's concern with the "Prevention of Sexual Harassment" which intent the Board of Examiners is in full agreement.

2. DEFINITIONS

- a. The following terms as used in this Section, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:
 - i) *Complaint* – written or verbal incident report as filed with a member of the Board. Complaints may remain anonymous as necessary to protect the person filing the complaint. Complaints may be formal or informal.
 - ii) *Sexual harassment* – unwelcome conduct of a sexual nature which makes a person feel offense, humiliated, and/or intimidated. It includes situations where a person is asked to engage in a sexual activity as a condition of that person's licensure, as well as situations which create an environment which is hostile, intimidating or humiliating for the recipient. Sexual harassment can involve one or more incidents and actions constituting harassment may be physical, verbal, and non-verbal.

3. EXAMPLES OF CONDUCT OR BEHAVIOR WHICH CONSTITUTE SEXUAL HARASSMENT

- a. Examples of conduct or behavior which constitute sexual harassment include, but in no way are limited to:
 - i) Physical conduct
 - (1) Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching;
 - (2) Physical violence, including sexual assault;
 - (3) Physical contact, e.g. touching;
 - (4) The use of job-related threats or rewards to solicit sexual favors.
 - ii) Verbal conduct
 - (1) Comments on a person's appearance, age, private life, etc.;
 - (2) Sexual comments, stories, and jokes;
 - (3) Sexual advances;
 - (4) Repeated and unwanted social invitations for dates or physical intimacy;
 - (5) Insults based on the sex or gender identity of the worker;
 - (6) Condescending or paternalistic remarks;
 - (7) Sending sexually explicit messages by any means of communication.
 - iii) Non-verbal conduct
 - (1) Display of sexually explicit or suggestive material;
 - (2) Sexually-suggestive gestures;
 - (3) Whistling;
 - (4) Leering.

4. SCOPE

- a. Anyone can be a victim of sexual harassment, regardless of their sex and of the sex of the harasser. Sexual harassment may also occur between people of the same sex. What matters is that the sexual conduct is unwanted and unwelcome by the person against whom the conduct is directed.
- b. Anyone, including all bar pilots under review by the Board of Examiners and the Board members themselves, who sexually harasses another will be sanctioned in accordance with this internal policy.
- c. All forms of sexual harassment are prohibited whether it takes place within the workplace premises or outside, including at social events, business trips, training sessions, continuing education presentations, or conferences sponsored by the Board of Examiners.

5. COMPLAINTS PROCEDURES

- a. Anyone who is subject to sexual harassment should, if possible, inform the alleged harasser that the conduct is unwanted and unwelcome. Sexual harassment may occur in unequal relationship (i.e. between a supervisor and his/her inferior) and that it may not be possible for the victim to inform the alleged harasser.
- b. If a victim cannot directly approach an alleged harasser, he/she can approach the designated Board member responsible for receiving complaints of sexual harassment. This person shall be a current member of the Board of Examiners, chosen by the Board at the onset of each new term. The Board shall make known to all bar pilots which of the members is the designated member.
- c. When the designated person receives a complaint of sexual harassment, he/she will:
 - i) Immediately record the dates, times, and facts of the incident(s).

- ii) Ascertain the views of the victim as to what outcome he/she wants,
 - iii) Ensure that the victim understand the Board's procedures for dealing with the complaint,
 - iv) Discuss and agree to next steps: either informal or formal complaint, on the understanding that choosing to resolve the matter informally does not preclude the victim from pursuing a formal complaint if he/she is not satisfied with the outcome.
 - v) Keep a confidential record of all discussions.
 - vi) Respect the choice of the victim, and
 - vii) Ensure that the victim knows that they can lodge a complaint outside of the Board through the relevant legal framework.
- d. Informal complaint – If a victim wishes to deal with the matter informally, the designated person will:
- i) Give an opportunity to the alleged harasser to respond to the complaint.
 - ii) Ensure that the alleged harasser understands the complaints mechanism.
 - iii) Facilitate discussion between both parties to achieve an informal resolution which is acceptable to the complainant or refer the matter to an appropriate mediator to resolve the matter.
 - iv) Ensure that a confidential record is kept of what happens.
 - v) Follow up after the outcome of the complaints mechanism to ensure that the behavior has stopped, and
 - vi) Ensure that the above is done speedily and within a reasonable time of the complaint being made.
- e. Formal complaint – if the victim wants to make a formal complaint or if the informal complaint mechanism has not led to a satisfactory outcome for the victim, the formal complaint mechanism should be used to resolve the matter. The designated person may refer the matter to an independent investigator. The independent investigator shall:
- i) Interview the victim and the alleged harasser separately.
 - ii) Interview other relevant third parties separately.
 - iii) Decide whether or not the incident(s) of sexual harassment took place by considering all evidence by a clear and convincing standard..
 - iv) Produce a report detailing the investigations, findings and any recommendations.
 - v) If the harassment took place, decide what the appropriate remedy for the victim is, in consultation with the victim (i.e. – an apology, a change to working arrangements, a fine, suspension, recommendation for revocation of license),
 - vi) Follow up to ensure that the recommendations are implemented, that the behavior has stopped and that the victim is satisfied with the outcome.
 - vii) If he/she cannot determine that the harassment took place, he/she may still make recommendations to ensure proper functioning of the workplace.
 - viii) Keep a record of all actions taken.
 - ix) Ensure that all records concerning the matter are kept confidential, and
 - x) Ensure that the process is done as quickly as possible and in any event within a reasonable time of the complaint being made.
- f. Records of all complaints shall be retained by the Board for a period of three (3) years after the close of any investigation.

6. SANCTIONS AND DISCIPLINARY MEASURES

- a. Under La. R.S. 49:945, the Board has the authority to exercise the following sanctions:

- i) To impose a fine of not more than five hundred dollars (\$500) upon any bar pilot;
 - ii) To reprimand or remove from a vessel any bar pilot; or
 - iii) To recommend to the governor that the commission of any bar pilot be suspended or revoked.
- b. In the event the Board finds that public health, safety, or welfare imperatively requires emergency action, and incorporated a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action in accordance with La. R.S. 49:961 and La. R.S. 34:945.
- c. The Board and the alleged harasser may consent to an agreement by which both parties agree on an appropriate sanction outside of the abovementioned sanctions.
- d. Any person who reports an incident of sexual harassment shall not be subject to retaliation for reporting the incident to the Board in any form, including but not limited to the following:
- i) Verbal, non-verbal, or written admonishment relating to the report.
 - ii) Threats or warnings endangering the reporter's personal wellbeing or employment.

7. MONITORING AND EVALUATION

- a. The Board recognizes the importance of monitoring this sexual harassment policy and will ensure that it anonymously collects statistics and data on how it is used and whether or not it is effective.
- b. The Chairman of the Board shall compile an annual report by February first of each year containing information from the previous calendar year regarding the Board's compliance with the requirements of La. R.S. 42:341, et seq., including the number and percentage of public servants under the Board's supervision who have completed the training requirements, the number of sexual harassment complaints received by his agency, the number of complaints which resulted in a finding that sexual harassment occurred, the number of complaints in which the finding of sexual harassment resulted in the discipline or corrective action, and the amount of time it took to resolve each complaint. These reports shall be public record and available to the public in the manner provided by the Public Records Law.

8. FEDERAL AND STATE LAW

- a. This policy is effectuated in concurrence with applicable State and Federal law, including but not limited to Title VII of the Civil Rights Act of 1964 and 29 C.F.R. § 1604 (2016) which prevent discrimination based on sex, and La. R.S. 42:341 et seq. in accordance with which this policy is enacted.

9. SEVERABILITY

- a. If any provision of this policy is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of this policy are declared to be severable.



HAYES T. BOOKSH,
CHAIRMAN OF THE BOARD