



# THE CORPORATION OF THE DISTRICT OF CENTRAL SAANICH

## COUNCIL POLICY

<b>Effective Date</b> May 1, 2014	<b>POLICY NO.</b> 06.ADM
<b>Amendment Date(s):</b>	<b>File No:</b> 0340-50-2004-01
<b>SUBJECT: BULLYING, DISCRIMINATION , HARASSMENT AND SEXUAL HARASSMENT</b>	
<b>Department:</b> Administration	

The District of Central Saanich (hereinafter called the "District") is committed to creating and maintaining a work environment for all employees in which bullying, discrimination, harassment and sexual harassment are not tolerated.

The District believes that employees should treat each other with respect and dignity, and particularly respect differences among employees.

### **PURPOSE:**

To create and maintain a working environment which is free from bullying, discrimination and harassment, including sexual harassment.

To educate and sensitize all employees to the standards of acceptable behaviour in the workplace through mandatory training.

To provide an avenue for discussing and, if necessary, to investigate complaints of bullying, discrimination, harassment and sexual harassment.

To encourage all employees to be pro-active in creating a bullying, discrimination, harassment, and sexual harassment-free environment by behaving appropriately and by addressing these issues either directly or through the complaint procedures.

To assure all employees, whether Complainants or Respondents, that they can expect fairness and objectivity during the investigation process.

### **APPLICATION:**

This policy applies to all employees of the District of Central Saanich.

### **REFERENCE:**

This policy makes reference to B.C. Human Rights Code , WorkSafe B.C., B.C. Human Rights Commission

## DEFINITIONS

In this policy:

**Advisor** means the Corporate Officer or other person designated by the Chief Administrative Officer;

**Bullying/Harassment** means any inappropriate conduct comment, display, action or gesture by a person that adversely affects the worker's psychological or physical well-being or towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

Bullying and harassing behaviour can include:

- Verbal aggression, insults or threats
- Humiliating initiation practices or hazing
- Spreading malicious rumours
- Calling someone derogatory names
- Vandalizing personal belongings
- Isolation and/or exclusion from work-related activities

The above list is not exclusive and harassment can also take place on the grounds of a person's age, religion, or any other characteristic protected under Human Rights.

Bullying and harassing behaviour does not include:

- Expressing differences in opinion
- Offering constructive feedback, guidance or advice about work-related behaviour
- Reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment (e.g. Managing a worker's performance, taking reasonable disciplinary actions, assigning work)

**Complainant** means an employee who has brought forward or filed a complaint under this policy alleging that they have been subject to bullying, discrimination, harassment or sexual harassment;

**Discrimination** in the employment context, includes refusing to hire, refusing to continue to employ or providing different wages, benefits or other terms of employment due to a person's race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age, or a criminal conviction or summary conviction offence that is unrelated to the employment or to the intended employment of an individual;

**Investigator** means an individual designated by the Chief Administrative Officer to investigate formal complaint(s) of bullying, discrimination, harassment or sexual harassment;

**Respondent** means an employee who is alleged to have bullied, discriminated against, harassed or sexually harassed the Complainant.

**Sexual harassment** is a form of discrimination, contrary to the provisions of the Human Rights Code, and includes any sexually oriented conduct or comment whether verbal, physical or by innuendo such as:

- sexist jokes that cause awkwardness or embarrassment;
- unwelcome physical contact such as touching, patting, pinching or hugging;
- displaying pornographic or other sexual materials in the form of degrading pictures, graffiti, or tunes or sayings;
- making derogatory remarks directed or oriented towards members of one's sex or sexual preference group;
- leering;
- making sexually aggressive remarks or gestures;
- making repeated sexual advances, requests for sexual favours or other verbal or physical conduct.

The definition of “**sexual harassment**” is not intended to include interactions or relationships based on mutual consent or normal social contact between employees. However, conduct will constitute sexual harassment when:

- the conduct is engaged in, or the comment is made by a person who knows, or ought reasonably to know, that the conduct or comment is unwanted or unwelcome;
- the conduct or comment has the effect of creating an intimidating, humiliating, hostile or offensive work environment, and may include the expression of sexist attitudes, language or behaviour;
- the conduct or comment is accompanied by a reward, or the express or implied promise of a reward for compliance;
- the conduct or comment is accompanied by reprisal, an express or implied threat of reprisal for refusal to comply;
- the conduct or comment is accompanied by the actual denial of opportunity, or express or implied threat of the denial of opportunity.

**Workplace** includes any location (office, work site, vehicle, etc.) at which employees of the District are performing work for or on behalf of the District, and includes locations of social events (Christmas parties, etc.) which are sponsored and/or sponsored by the District or are held for employees of the District. Work-related electronic communication such as email and/or social media is also included.

## RESPONSIBILITIES

### Senior Management

- Support and endorse the workplace bullying and harassment program
- Ensure time and resources are available to conduct mandatory training, investigations etc.
- Ensure that this policy is reviewed annually.
- Complete all appropriate forms to document any incidents of bullying or harassment
- Assist in the investigation of any incidents of bullying or harassment where necessary or required; and ensure appropriate recommendations are implemented
- Not engage in bullying or harassment of workers, supervisors or other managers

### Managers/Supervisors/Foremen/Leadhands

- Apply and comply with this program

- Inform workers and ensure that all receive mandatory training in the program within 6 months of initial hire
- Ensure bullying/harassment is never endorsed
- Take steps to prevent bullying and harassment
- Promote the process to report incidents and complaints of bullying and harassment
- Complete all appropriate forms to document any incidents of bullying or harassment
- Assist in the investigation of any incidents of bullying/harassment where necessary or required
- Not engage in bullying or harassment of workers, other supervisors or managers

### **Workers**

- Not engage in bullying or harassment of other workers, supervisors, or managers
- Report bullying and harassment observed or experienced in the workplace
- Complete all appropriate forms to document any incidents of bullying or harassment
- Apply and comply with the employer's policies and procedures on bullying and harassment

### **Investigators**

- Gather all required information to conduct a full and comprehensive investigation
- Complete investigations free of bias
- Provide follow up and recommendations to assist in eliminating reoccurrence

## **PREVENTION & ERADICATION**

The District of Central Saanich is committed to the prevention and eradication of bullying, discrimination, harassment and sexual harassment from the workplace.

Consistent with the definition of "Workplace" above, this policy will extend to all locations at which work is being performed by or on behalf of the District such as the office, outdoor work sites, vehicles, and any other location at which employees gather to carry out the work of the District or as a result of being employed by the District. Further, "Workplace" will include locations of social events which are supported, sponsored or held as a result of employment with the District such as Christmas parties and other social gatherings, and work-related electronic communication.

Consistent with this objective, the District will provide mandatory educational training sessions to all employees about bullying discrimination, harassment and sexual harassment and their prevention, eradication and the complaint procedure process.

## **CONFIDENTIALITY**

- a) Complaints received by the District will be treated in a confidential fashion subject to the District's duty and responsibility to protect the interests of its employees, the resolution of an incident of harassment which requires disclosure of the information, and/or the District being required to provide information to any external Board or Court.
- b) If the complaint is not carried beyond the informal resolution stage, the District will maintain no written record of the names of the parties or of the particulars of the complaint.

- c) During a formal investigation, all written material will be kept in confidence and separate from any employee's personnel file and will be maintained after the investigation by the Advisor until statutory limitation periods have expired.
- d) Where it is found, as a result of a formal investigation, that an employee has committed an act of harassment, the personnel file will indicate the nature of the harassment and the discipline imposed.

## **FALSE ALLEGATIONS**

The District recognizes that not every incident complained of will constitute bullying discrimination, harassment or sexual harassment. Determining whether a particular action or incident is a personal, social relationship without a discriminatory employment effect requires determination based on all the facts and surrounding circumstances.

The District recognizes that false allegations can have serious detrimental effects on innocent parties. Where, as a result of a formal investigation, it is determined that a complaint was of a malicious or frivolous nature, disciplinary action may be taken against the Complainant.

## **PROCEDURE:**

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### **COMPLAINT PROCEDURES**

All complaints will be taken seriously and investigated in a confidential, impartial and timely manner.

Pursuing a complaint under this Policy does not prevent an employee from filing a complaint with the B.C. Human Rights Commission, WorkSafe BC, taking legal action or pursuing any other available avenue to obtain a satisfactory resolution to a complaint.

In the event an employee files a complaint under the B.C. Human Rights Code or pursues another legal avenue, the investigation process under this Policy may be terminated.

### **Complaint Procedure**

#### **A. Options for Informal Resolution**

An employee who believes that he/she has been subject to bullying, discrimination, harassment or sexual harassment may choose from the following courses of action:

- a) Bring the matter to the attention of the person responsible for the conduct and ask that the conduct cease. If the conduct persists or if the employee does not feel comfortable dealing with the individual alleged to have harassed, options b) and c) are available.
- b) Discuss concerns with his/her Manager or the Advisor, who will review with the employee the policy, definitions of discrimination or harassment and the options for resolution, and/or facilitate resolution of concerns within the immediate work area.

- c) Contact the Advisor who will review the circumstance, assist individuals in understanding the options available and facilitate resolution where appropriate.

The employee may decide to:

- discuss concerns directly with the individual alleged to have harassed with the assistance of the Advisor to determine if the matter can be resolved informally;
- request that the Advisor meet with the individual alleged to have harassed to discuss the complaint and to determine whether the matter can be resolved informally;
- decide to proceed to a formal investigation;
- decide to take no action at this time.

## **B. Formal Investigation, Review and Resolution**

- a) A formal request for investigation can be made when either the informal approach has not resolved the problem or when the Complainant wishes a formal investigation to be conducted.
- b) Requests for a formal review will be made in writing to the Advisor within six (6) months of the most recent incident. This written request must provide a detailed account of the circumstances surrounding the alleged conduct, including:
- name, title and department of the Complainant and the Respondent;
  - description of the behaviour, conduct, events, context and circumstances of the complaint;
  - times and dates of the incident;
  - names of any witnesses;
  - previous attempts to resolve the complaint; and
  - the remedy which the Complainant seeks.
- c) Within three (3) working days of the receipt of a request for formal review, the Advisor will notify the Respondent that a formal complaint has been initiated; the nature of the complaint and that he/she will be invited to respond to the complaint at the appropriate time. The Advisor will notify the Administrator immediately upon receipt of a request for formal review.
- d) The Chief Administrative Officer has authority to investigate the complaint or to designate an appropriate internal or external Investigator to conduct the investigation. In the latter case, the Chief Administrative Officer will be available in a supportive and advisory role to the designated Investigator.
- e) The Investigator and Advisor will conduct interviews with both the Complainant and the Respondent to obtain information and clarify the details of the reported incident. Both the Complainant and the Respondent will have an opportunity to identify witnesses or others to be interviewed. Where witnesses are not identified, or where otherwise appropriate, co-workers may be interviewed.
- f) The Investigator and Advisor will document the results and conclusions of the investigations after interviewing the Complainant, the Respondent and any relevant witnesses (including co-workers). Every effort will be made to complete the investigation

and document the findings within two weeks following the receipt of the formal request by the Advisor.

- g) At the conclusion of the investigation, the Investigator and Advisor will discuss the findings with the Complainant, the Respondent and the Administrator. Where the results of an investigation find the Respondent has committed an act of harassment, the Administrator will make a final decision on the appropriate corrective action.
- h) Where the results of the investigation find that the Respondent has committed an act of harassment the following, without limitation, may be recommended forms of corrective action:
  - education and training for the Respondent;
  - review and modification of policies, procedures and practices;
  - continuous monitoring of the Respondent;
  - disciplinary action up to and including dismissal.
- i) In keeping with the commitment of the District to the prevention and eradication of harassment in the workplace, it is understood that corrective action is intended in all cases to be appropriate to the situation. When determining appropriate corrective action, the following factors are among those that will be considered:
  - nature and seriousness of the offence (e.g. degree of psychological or physical aggression);
  - whether the harassment was a single or a repeated act;
  - the relationship of the Complainant and the Respondent;
  - the impact of the harassment on the Complainant;
  - the history of other misconduct related to harassment by the Respondent and whether earlier attempts to correct the misconduct have tried and failed.

Workplace Bullying and Harassment Investigation Form is shown in Appendix B.

### **C. Appeal Process**

Should either complainant or respondent wish to appeal any outcome of the investigation, they are free to do so.

- An appeal must be made in writing without unreasonable delay, no later than 30 days after the decision.
- Full details on the reason for appealing the decision must be provided, clearly explaining why there is a disagreement on the decision.
- Every effort must be made to follow the current corrective actions while the appeal is reviewed.
- An appeal meeting will be arranged to discuss the appeal and, where possible, other participants may be included in the discussion (different senior manager, unbiased 3rd party, union etc).
- A final decision will be provided in writing within one week of the appeal meeting.

## **TRAINING**

Training for supervisors and workers will include the following, and will be mandatory for all employees new to the District:

- How to recognize bullying and harassment
- Worker, supervisor and corporate responsibilities pursuant to WorkSafe BC Regulation
- How staff who experience or witness bullying and harassment should respond
- Procedures for reporting, and how the employer follows up with incidents or complaints of bullying and harassment
- Documents/form review

Training will occur as required and will be included in orientation.

## **RECORD KEEPING**

The District expects that staff experiencing or witnessing suspected/alleged bullying and harassment to complete the Workplace Bullying and Harassment Complaint Form. (Appendix A). The District will keep all records pertaining to investigations and findings in a secure and confidential manner.

## **ANNUAL REVIEW**

This program and these procedures will be reviewed annually. All workers will be advised and educated on this policy and program when they are hired, through the new employee orientation process.





<b>WORKPLACE BULLYING AND HARASSMENT INVESTIGATION FORM</b>	
<b>COMPLETED BY THE INVESTIGATOR</b>	
<b>INVESTIGATOR INFORMATION</b>	
NAME(S):	POSITION(S):
DEPT:	DATE:
<b>DOCUMENT REVIEW</b>	
List all documentation reviewed (emails, notes, photographs, physical evidence etc.)	
<b>INTERVIEWS</b>	
PERSON INTERVIEWED (Name, position)	
SITUATION DESCRIPTION (include dates, words actions) and impact (humiliated, intimidated etc.)	
PERSON INTERVIEWED (Name, position)	
SITUATION DESCRIPTION (include dates, words actions) and impact (humiliated, intimidated etc.)	
PERSON INTERVIEWED (Name, position)	
SITUATION DESCRIPTION (include dates, words actions) and impact (humiliated, intimidated etc.)	
<b>OUTCOMES</b>	
Based on the investigation, did workplace bullying and harassment occur? Yes    No	
Reason(s) for this conclusion:	
Follow up with complainant/respondent. Include corrective actions, time frame, training opportunities etc.	