

AP 580.1: Respectful Workplace Program

1. Definitions

1.1. **Harassment:** For the purpose of this Policy, harassment shall be defined as including:

1.1.1. any improper behaviour that is directed at or is offensive to any person and is unwelcome and which the person knows or ought reasonably to know would be unwelcome.

1.1.2. objectionable conduct, comment, materials or displays made on either a one (1)-time or continuous basis that demeans, belittles, intimidates, or humiliates another person.

1.1.3. the exercise of power or authority in a manner which serves no legitimate work purpose and which a person ought reasonably to know is inappropriate.

1.1.4. such misuses of power or authority that could reasonably be interpreted as intimidation, threats, coercion and/or blackmail.

1.2. **Discrimination:** Discrimination in employment within the meaning of the BC Human Rights Code, is discrimination based on a person's sex, race, color, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sexual orientation, gender identity or expression, age, or criminal conviction which is unrelated to the person's employment. Discrimination permitted by the BC Human Rights Code is not a breach of the Policy (i.e., where a bona fide occupational requirement is established, or where the alleged discrimination relates to a bona fide pension plan or group insurance plan). Discrimination includes sexual harassment, as defined below.

1.3. **Sexual Harassment:**

1.3.1. any comment, look, suggestion, physical contact or real or implied action of a sexual nature which creates an uncomfortable working environment for the recipient, made by a person who knows or ought reasonably to know such behaviour is unwelcome.

1.3.2. any circulation or display of written or visual material of a sexual nature that has the effect of creating an uncomfortable learning or working environment.

1.3.3. an implied promise of reward for complying with a request of a sexual nature.

1.3.4. a sexual advance made by a person that includes or implies a threat or an

expressed or implied denial of an opportunity which would otherwise be granted or available and may include reprisal or a threat of reprisal made after a sexual advance is rejected.

1.4. **Bullying:**

1.4.1. Bullying is verbal or physical behaviour by one (1) or more people who appear to be more powerful in some way than their victim. Bullying makes the victim feel uncomfortable, embarrassed and/or unsafe and can interfere with the victim's success at school or work.

1.5 **Complainant:** A person who files a complaint. In some instances, the District may act as a complainant where it becomes aware of allegations of discrimination or bullying or harassment that, if true, would violate this Policy but no person comes forward with a complaint, or where an investigation is required by law.

1.6 **Complaint:** A formal written complaint containing allegations of discrimination, bullying or harassment or other violation(s) of this Policy.

1.7 **Director of Human Resource Services:** The District's Director of Human Resource Services or designate.

1.8 **Employee:** An employee of the District, including administrators, teachers, and staff.

1.9 **Investigator:** A person appointed by the District to investigate a Complaint.

1.10 **Respondent(s):** A person or persons alleged to have engaged in conduct that violates this Policy.

1.11 **Retaliatory Action:** Any adverse action taken against a person because that person reports or alleges a violation of this Policy, seeks advice on making a complaint, makes a complaint, or cooperates in an investigation of a complaint.

1.12 **False Complaints:** A frivolous, vexatious, or malicious complaint.

2. **Examples of Discrimination, Harassment and Bullying:**

Specific examples of harassment, sexual harassment, bullying: Sexual or personal harassment may include, but is not limited to behaviours, whether intentional or unintentional, which are perceived by the recipient as unwelcome. Examples of such behaviours include, but are not limited to:

2.1 remarks or correspondence with sexual overtones

2.2 jokes that cause awkwardness or embarrassment

- 2.3 innuendoes, taunting or intimidation, based on one's real or perceived identity
- 2.4 gender-based, gender identity or sexual orientation-based remarks of a derogatory or sexual nature, or general insulting remarks
- 2.5 proposal of intimacy of a sexual nature
- 2.6 repeated unwelcome invitations, request for dates or sexual favours
- 2.7 leering, patting, pinching, touching, hugging, brushing against
- 2.8 displays of materials, pictures, cartoons or sayings of a derogatory, sexist, homophobic transphobic, racist, pornographic or otherwise demeaning nature
- 2.9 calling someone names
- 2.10 spreading rumors
- 2.11 stealing or extorting someone's lunch or other property
- 2.12 vandalizing District and/or personal belongings
- 2.13 exclusion from groups
- 2.14 unfair treatment, comments or bias against someone or a group of people based on their race

3. What does not constitute discrimination or harassment?

- 3.1. an occasional compliment
- 3.2. flirtation or banter when it is mutually acceptable between/among peers or friends
- 3.3. normal exercise of supervisory responsibilities, including disciplining, when warranted
- 3.4. any reasonable action taken by a District administrator or supervisor relating to the management and direction of employees or the place of employment
- 3.5. expression of reasonable opinions freely and courteously; or
- 3.6. respectful engagement in honest differences of opinion.

4. Procedure for informal resolution of a complaint

Complainants are encouraged, but not required, to immediately tell the other person when his/her behaviour is considered inappropriate and unwanted and ask that the unwanted conduct stop. Persons should comply immediately with the request without retaliation. If the complaint is not resolved, the following procedures should be followed:

4.1 Procedures for teachers

Complaints involving teachers will be subject to the provisions of the Collective Agreement with the employer.

4.2 Procedures for C.U.P.E. Employees

Complaints involving C.U.P.E. members will be subject to the provisions of the Collective Agreement with the employer.

4.3 Procedures for Parents/Volunteers/Others

A parent or volunteer should report the incident to the Principal, Vice-Principal or a Supervisor who is required to investigate the matter. Alleged harasser(s) will be informed, after consideration of the safety of the complainant, that a complaint has been filed against them. The appropriate person will report back in writing to the complainant regarding progress made toward resolving the complaint.

4.5 Procedures for Exempt Employees

The District encourages prompt reporting of all alleged violations of this Policy, regardless of whether the person reporting the alleged violation is a victim or observer of such conduct.

4.5.1 Informal Resolution

4.5.1.1 An Employee who believes they have been subject to bullying, harassment or discrimination is encouraged to attempt to resolve the matter informally, by bringing the matter to the attention of the person who has engaged in the conduct, advising them that the conduct is unwelcome and contrary to this Policy, and asking that the conduct cease immediately. The employee should keep a written record of the steps taken to alleviate the problem.

4.5.1.2 The employee may ask their supervisor to assist in attempting to resolve the matter informally.

4.5.1.3 If the matter cannot be resolved informally, or if the employee does not wish to pursue informal resolution, the employee may file a Complaint in accordance with the procedure outlined below.

4.6 Filing a Complaint

4.6.1 An Employee who believes they have been subject to bullying and harassment or discrimination or has otherwise been affected by a violation of this Policy, may file a complaint under this Policy by submitting a Complaint in

writing to the Director of Human Resources Services.

- 4.6.2 If the Director of Human Resources Services is a Respondent, the Complaint should be filed with the Superintendent & Chief Executive Officer who will then perform the duties of the Director of Human Resources Services under this Policy.
- 4.6.3 If the Superintendent & Chief Executive Officer is a respondent, the Complaint should be filed with the BCPSEA and BCPSEA will liaise with the Board Chair to select a third-party investigator with the assistance of the board's legal counsel.
- 4.5.4 The Complaint should set out the relevant details regarding the alleged bullying and harassment or discrimination, or other alleged violation of this Policy. The Complaint should include a list of any potential witnesses, along with a description of the information those witnesses are expected to provide. Any relevant documents, including any social media communications, should also be included with the Complaint.
- 4.5.4 A Complainant has the right to withdraw a Complaint at any stage of the process. However, the District may continue to act on the issue identified in the Complaint to comply with its obligations under law or this Policy.

4.7 Time Limit for Filing Complaints

- 4.7.1 A Complaint should be filed within 12 months of the alleged incident(s). If the Complaint involves a series of related incidents, the Complaint should be filed within 12 months of the most recent incident.
- 4.7.2 The District has the discretion to accept a Complaint for filing after the expiry of the time limit described above, if the District determines that the delay in filing was reasonable and justified, and that no person would be prejudiced by the late filing.

4.8 Initial Review

- 4.8.1 Upon receipt of a Complaint, the Director of Human Resources Services will conduct an initial review to determine whether the allegations in the complaint fall within the scope of this Policy. This review will occur promptly, unless exceptional circumstances exist that prevent the Director of Human Resources Services from meeting this timeline, in which case the Director of Human Resources Services will contact the Complainant in writing as soon as possible to inform them of the revised timeline.
- 4.8.2 If the Director of Human Resources Services determines that the complaint falls within the scope of this Policy, the Director of Human Resources Services will do as below:
 - a. For unionized employees - act in accordance with the applicable collective agreement provisions.
 - b. For Exempt employees
 - i) appoint an Investigator to investigate the Complaint; or

ii) refer the matter to the alternative resolution process described below.

4.8.3 If the Director of Human Resources Services determines that the allegations in the Complaint do not fall within the scope of this Policy, the Director of Human Resources Services will advise the Complainant of the decision along with reasons. If the Director of Human Resources Services believes that the complaint discloses other kinds of misconduct or information that District may need to act on under another District policy or process, the Director of Human Resources Services may refer the complaint or the relevant portions of the complaint to the appropriate District authority. When appropriate, the Director of Human Resources Services will consult with the employee making the complaint before referring it elsewhere.

4.9 Alternative Resolution Process

4.9.1 If the Director of Human Resources Services believes that an alternative resolution process may be appropriate in the circumstances, the Director of Human Resources Services will discuss this option with the Complainant. If the Complainant agrees that an alternative resolution process may be appropriate, the Director of Human Resources Services will contact the Respondent to advise them that a Complaint has been made and will discuss this option with the Respondent. If the Respondent agrees to participate in an alternative resolution process and the Director of Human Resources Services is satisfied that an alternative resolution process is appropriate, then the Director of Human Resources Services will explore the options available and, with the agreement of both parties, will refer the matter to that process for resolution.

4.9.2 Participation in an alternative resolution process is voluntary.

4.10 Investigation

4.10.1 If an alternative resolution process is not pursued or does not resolve the matter, the Director of Human Resources Services will appoint an internal or external Investigator to investigate the Complaint.

4.10.2 The Investigator will advise participants in the investigation process of the option to have a support person present for interviews. For unionized employees, this would normally be a steward or union representative. For Employees who are administrators, another administrator may act as support person. For students, the support person would normally be the PAC member, parent, or a counselor. The investigator has discretion to consider requests for others to be support persons.

4.10.3 Except in exceptional circumstances, investigations (including the preparation of the Investigator's report) will be completed within 120 business days of the investigator's receipt of the complaint. If, during the course of the investigation,

the investigator believes that this timeline cannot be met, the Investigator will contact the Complainant, the Respondent, and the Director of Human Resources Services as soon as possible to inform them of the revised timeline.

- 4.10.4 Investigations are not an adversarial process, and hearings will not be held as part of the investigatory process. Formal rules of evidence commonly associated with a civil or criminal trial will not be applied.
- 4.10.5 In all investigations, the Respondent will be informed of the allegations made against them and will be given a full opportunity to respond.
- 4.10.6 The investigator will conduct the investigation in a procedurally fair manner, using a process determined by the investigator.
- 4.10.7 The investigation will include interviews with the complainant, the respondent, and any witnesses. The investigator will also review any evidence, such as emails, handwritten notes, photographs, text messages, photographs, or physical evidence like vandalized object.
- 4.10.8 Employees are expected to cooperate with investigators and provide any details of incidents they have experienced or witnessed.
- 4.10.9 At the completion of the investigation, the investigator will submit a written report to the Director of Human Resources Services.
- 4.10.10 The complainant and respondent will be advised of the investigation findings in writing by the Director of Human Resources Services.

4.11 Confidentiality

Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident or complaint of discrimination or bullying and harassment, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect employees, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

While the investigation is on-going, Complainant, the Respondent and any witnesses should not discuss the incident, complaint, or the investigation with each other or with other employees or witnesses 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.

All records of the investigation will be kept confidential.

5. Retaliatory Action, Breaches of Confidentiality, and Frivolous or Vexatious Complaints

5.1 The District has a **ZERO** tolerance policy for any kind of Retaliatory Action.

5.2 If any employee of the District is engaged in any kind of Retaliatory Action, or violated

the confidentiality of the investigation, the District will take appropriate disciplinary action.

- 5.3 If the Investigator determines that the Complaint was frivolous, vexatious, or vindictive in nature, the District will take appropriate disciplinary action against the Complainant.

6. Appeal

- 6.1 A Complainant or Respondent may appeal the investigation findings or the decision to the next level of authority. For example, if the initial complaint was made to the Director of Human Resources Services, the appeal would be made to the Superintendent and CEO.
- 6.2 The Appeal must be submitted in writing within ten (10) working days of the decision being received by the Complainant/Respondent and must provide specific grounds for the appeal, describing how this Policy was incorrectly applied and/or due process was not followed.
- 6.3 The person deciding the appeal will review the appropriateness of the process followed during the investigation and give reasons for the decision in writing within 30 working days.

7. Independent Investigation

Employees, students, parents, and volunteers may choose to present the complaint to the police or Human Rights commissioner under the terms of the Human Rights Act.