

# Bullying and Harassment Regulation

## 4320-10 | Bullying and Harassment Regulation

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### 1. Overview and Definitions

1.1. The following definitions apply within this regulation:

1.1.1. **“Bullying”** includes:

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

1.1.1.2. misuses of power or authority including intimidation, threats, coercion and blackmail.

1.1.2. **“Personal Harassment”** includes:

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

1.1.2.2. objectionable conduct, comment, materials or display that demeans, belittles, intimidates, or humiliates another person.

1.1.3. **“Sexual Harassment”** is any unwelcome comment or conduct of a sexual nature that may detrimentally affect the school or work environment or lead to adverse school or job related consequences for the victim of the harassment. Examples of sexual harassment include:

1.1.3.1. gender based remarks;

1.1.3.2. unwanted physical contact;

1.1.3.3. sexual advances;

1.1.3.4. requests for sexual favors;

1.1.3.5. suggestive or offensive comments;

1.1.3.6. gestures emphasizing sexuality, sexual identity or sexual orientation;

1.1.3.7. display of materials or graffiti which is sexually explicit or degrading;

1.1.3.8. conduct or comment of a sexual nature that has the effect of creating an offensive environment;

1.1.3.9. jokes (sexual content or overtones) that cause embarrassment; and

1.1.3.10. conditioning grades, promotions, or other school or employment related decisions, on sexual conduct.

1.1.4. To establish bullying, or personal or sexual harassment, the complainant must show that a reasonable person in the complainant’s position would have perceived the conduct or comments as bullying or harassing. Furthermore, the complainant must show that a reasonable person in the alleged bully’s or harasser’s position would have known — or ought to have known — that the behaviour was unwelcome.

1.1.5. Bullying and harassment do not include actions occasioned through exercising in good faith the employer’s and employee’s respective rights and responsibilities for legitimate work-related purposes, including supervision.

## **2. Guiding Principles**

- 2.1. District administration will take actions to foster a respectful learning and working environment and implement this policy and regulation in a manner that is consistent with the protections contained in the Charter of Rights and Freedoms, the British Columbia Human Rights Code, the School Act (including the Provincial Standards for Codes of Conduct Order), and other relevant Board policies and standards, when dealing with any matters being addressed through this policy and regulation.
- 2.2. Principals, and department Directors and Managers, are responsible for using all reasonable efforts to create and maintain a respectful learning and working environment which is free from bullying and harassment.
- 2.3. Principals, and department Directors and Managers, shall review this regulation annually with staff at a staff meeting. A policy statement in pamphlet form will be available to employees. Training will be provided to school-based administrators and other site supervisors to assist in the effective implementation of this regulation.
- 2.4. Principals, and department Directors and Managers, shall, at the beginning of each school year, arrange to provide employees with an awareness program that reviews this policy and regulations and educates employees about bullying, or personal and/or sexual harassment.
- 2.5. Complaints of bullying or harassment will be dealt with as quickly as possible. Where bullying or harassment complaints involve employees, the processes used will conform with any requirements contained within collective agreements or contracts of employment.
- 2.6. Individuals who believe they are being subjected to bullying or harassment are encouraged, where appropriate, to bring the matter to the attention of the person responsible for the conduct in question.
- 2.7. Where an individual does not wish to deal directly with the person responsible for the objectionable conduct, they are encouraged to approach their association representatives, supervisor, or another advocate in an attempt to resolve their concerns.
- 2.8. With regard to employees, any process or discipline resulting from a complaint of bullying or harassment will follow procedures outlined in the appropriate collective agreement or contract of employment. In the case of students, parents or others, relevant Board policies and procedures and District and school codes of conduct will be applicable.
- 2.9. Where there are no procedures for addressing a complaint contained in a collective agreement, employment contract or District policy, complaints of bullying or harassment shall be addressed according to the procedures contained in this regulation.
- 2.10. Students who are being harassed (including bullying) should report any incidents to a person of authority at their school or to a parent who may make such a report on the student's behalf. Complaints of student harassment and bullying shall be acted on immediately by a school-based or District administrator as is appropriate.

## **3. Individual Responsibilities**

- 3.1. All members of the school community, including employees, students, contract employees and volunteers shall treat each other with respect, dignity, tolerance and consideration.
- 3.2. Members of the school community shall ensure that their verbal, written and electronic communications with each other is respectful and supportive of a productive and safe working and learning environment.
- 3.3. Employees shall assist and cooperate with each other, including their immediate supervisor, in ensuring that their work is performed in a productive, efficient and respectful fashion consistent with the principles outlined in this policy and regulation.
- 3.4. Members of the school community shall respect the right of all members to work in an environment free from bullying, harassment and discrimination.
- 3.5. Members of the school community shall adhere to the Board policies and regulations, and any applicable collective agreement or employment contract provisions.
- 3.6. All persons involved in a complaint under these procedures shall treat information as confidential. Allegations of bullying, or personal or sexual harassment, often involve sensitive disclosures. Confidentiality is important so that those who may have been bullied, or personally or sexually harassed, are encouraged to come forward and are reassured that their confidentiality is protected. Similarly, those who are the subject of bullying or harassment complaints will be subject to the same confidentiality protections.
- 3.7. Individuals are encouraged to report all incidents of bullying, or personal or sexual harassment, without fear of reprisal. Retaliation against any individual for reporting bullying or harassment will not be tolerated.

Procedures for Employees When There is No Collective Agreement or Other Relevant Procedures Available to Address Bullying or Harassment Complaints

#### **4. Step 1 – Informal Procedure**

- 4.1. An employee/complainant who believes he or she has been subjected to bullying or harassment is encouraged to bring the matter to the attention of the person/respondent believed to be responsible for the conduct.
- 4.2. Where the complainant does not wish to deal directly with the respondent, the complainant may approach his/her association representative, supervisor or another advocate to request assistance in resolving the matter and to discuss potential means of resolving the complaint.
- 4.3. The respondent shall be advised of the complaint in a timely manner by the complainant or by the association representative, supervisor or other advocate asked to assist in resolving the matter.
- 4.4. If the matter is resolved to the complainant's satisfaction, the matter is deemed to be resolved.

#### **5. Step 2 – Formal Process**

- 5.1. If a complainant chooses not to meet with the respondent, or if the matter is not resolved through the informal process outlined in Section 4, a complaint may be filed in writing with the Director, Human Resources no later than thirty (30) days after the last incident of alleged bullying or harassment or twelve (12) months after the first incident. The specifics of the complaint shall include, but not be limited to, the following:

- 5.1.1. The person or persons who are the subject of the complaint.
- 5.1.2. The specific conduct, behaviour and/or comments which are alleged to be bullying or harassment.
- 5.1.3. The specific or general date(s) on which the above occurred.
- 5.1.4. Which clause in Section 1 has allegedly been breached.

In the event that complaint is against the Director, Human Resources, the complaint may be filed with the Secretary-Treasurer.

The Director, Human Resources (or the Secretary-Treasurer where applicable) may, in his/her discretion, allow a complaint to be filed outside the time period noted in this section.

5.2. On receipt of a bullying or harassment complaint, the Director, Human Resources shall first determine whether the complaint meets the definition of bullying or harassment contained in this policy. In the event that the Director, Human Resources determines that the complaint does not meet the definition of bullying or harassment, the complainant will be so notified in writing. The person against whom the complaint of bullying or harassment has been made will also receive written notification of that determination.

5.3 At the outset of an investigation the complainant is required to make it known to the Director, Human Resources if there is an action being taken through another agency regarding a matter related to the bullying or harassment complaint. The district may determine it is not appropriate to investigate a complaint under the harassment policy where another process is being undertaken (e.g., WCB Regulations, Human Rights Code, Employment Standards Act, etc.).

5.4. If the Director, Human Resources determines a complaint of bullying or harassment

- 5.4.1. Falls within the scope of the harassment policy, and
- 5.4.2. is not being investigated through another process,

the Director, Human Resources (or the Secretary-Treasurer where applicable) shall notify the respondent of the complaint and provide notice of an investigation. The notification shall be in writing and shall include but not be limited to the following:

5.4.3. A reference to this regulation.

5.4.4. A copy of the complaint provided under section 5.1 above.

5.4.5 A request for a written response to the specific allegations cited in the complaint and a ten (10) calendar day time limit for such response to be received.

5.5. The Director, Human Resources may conduct the investigation him/herself or, if appropriate, may appoint a trained investigator to conduct the investigation.

5.6. The investigator will conduct interviews with relevant parties to obtain information and clarify details of the complaint. Both parties will have an opportunity to identify witnesses or others to be interviewed. All interviews will be conducted in a confidential manner.

5.7. In conducting the investigation, the investigator may request the assistance of other Board staff, or outside legal or expert professionals, as is considered necessary.

5.8. At any time during the course of the investigation, the parties may reach resolution or settlement of the

matter, in which case the investigator may propose that the investigation be discontinued. This may involve the use of mediation with the agreement of both parties. This agreement, if reached, shall be in writing and be signed by both parties.

5.9. In the event there is no agreement reached, the investigator shall normally complete a written report within thirty (30) working days of the receipt of the complaint, and attempt to finally resolve the matter within a further ten (10) working days.

5.10. The Director, Human Resources may, where appropriate, refer the report to legal advisors, members of the executive team or others, to assist in a determination of appropriate action to be taken with respect to the complaint. Where the Director, Human Resources determines that the matter should be referred to the Board for consideration and resolution, the Director, Human Resources will refer the matter to an in-camera meeting of the Board.

5.11. The following may be forms of action:

- 5.11.1. education and training of an employee or group of employees.
- 5.11.2. review and modification of related policies, procedures and/or practices in the workplace.
- 5.11.3. monitoring of the behaviour of an employee or group of employees.
- 5.11.4. transfers, reassignments, changes in shifts or other changes in the workplace.
- 5.11.5. disciplinary action up to and including dismissal.
- 5.11.6. where necessary, banning non-employees from the premises.
- 5.11.7. other strategies appropriate to the particular circumstances designed to eliminate and/or prevent bullying and harassment.

Where changes in the workplace are made necessary by demonstrated bullying, or personal or sexual harassment, the burden of those changes shall be borne by the person who has engaged in the bullying or harassing conduct.

5.12. Where the Director, Human Resources determines that bullying or harassment has taken place, the complainant may, when appropriate, be entitled to a remedy.

5.13. It is recognized that vexatious or malicious complaints may damage the reputation of, or be unjust to, other persons. Any person found to have made vexatious or malicious allegations may be subject to appropriate disciplinary or other action.

#### **Statutory and Contractual References:**

BC School Act, Regulations and Ministerial Orders

Canadian Charter of Rights and Freedoms

B.C. Human Rights Code

Worksafe BC Regulation 4/24 to 4/26

Workers Compensation Act Guideline G-D3-115(1)-3

Article E.2, Teachers' Collective Agreement

Article 10.10, IUOE Local 882-BCollective Agreement