

**REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN  
BOARD POLICY**

**POLICY:** Harassment, Bullying & Discrimination Policy

**AUTHORITY:** Board Resolution No. B337/10 dated July 8, 2010.

**AMENDED:** Board Resolution March 19, 2015<sup>i</sup>

**POLICY STATEMENT:**

The Regional District of Okanagan Similkameen will promote a positive and professional work environment where all are entitled to a workplace free of harassment, bullying and discrimination. Employees must not engage in bullying, harassment or discriminatory conduct and must report if they experience or witness this conduct. The Regional District has no tolerance for and will investigate all alleged claims to ensure all parties and their respective interests are considered. An effective remedy will be provided when an allegation is determined to be valid. All complaints of harassment, bullying or discrimination will be held in the strictest confidence amongst the parties.<sup>1</sup>

**PURPOSE:**

The purpose of this Policy is to eliminate harassment, bullying or discrimination based conflicts and provide a fair and equitable means of achieving resolution should they occur.<sup>1</sup>

**APPLICATION:**

This Policy applies to all Regional District of Okanagan Similkameen workers, including employees, volunteers and Directors.

**PRINCIPLES:**

1. Nothing in this Directive is intended to discourage or prevent an individual from pursuing a complaint by other legal or legislative avenues.
2. Where there is any conflict between the policies and procedures outlined in this Regional District Policy and the policies and procedures set forth in a collective agreement adopted by the Regional District of Okanagan Similkameen, or the policies and procedures set forth in a statute of the Provincial or Federal Government, the collective agreement or the statute shall supersede this policy.
3. All employees, volunteers and Directors of the Regional District of Okanagan Similkameen share responsibility for creating and maintaining an environment that is free of harassment, bullying and discrimination. This policy also applies to conduct through social media and electronic communications.<sup>1</sup>
4. The potential for harassment, bullying or discrimination<sup>1</sup> increases in relationships where a person has power over another person. In particular:

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- (1) Individuals who have authority over another are responsible for ensuring that they do not abuse their power.
  - (2) Disciplinary or corrective measures may also be taken:
    - a. against any manager who is aware of a harassment, bullying or discriminatory<sup>1</sup> situation and who fails to take corrective action;
    - b. anyone who interferes with the resolution of a complaint by threats, intimidation or retaliation; or
    - c. anyone who files a complaint that is frivolous or in bad faith.
5. Confidentiality by all parties is a cornerstone of this process. In particular:
- (1) Information about a case will be disclosed only to those individuals who are involved in the process.
  - (2) Exceptions to confidentiality may result from disclosures that suggest that an individual is at risk of serious physical harm.
6. Fairness for all parties involved in a complaint is essential. In particular:
- (1) Representatives or support persons may accompany the parties or witnesses during any procedure in this Directive.
  - (2) Complainants and respondents will be informed about the procedure being used, the role of the person implementing the procedure, the outcome of the complaint, and any disciplinary, corrective or remedial action taken.
  - (3) All parties will be given equal opportunity to present evidence in support of their positions and to defend themselves against allegations. Investigations will include interviews of the complainant, respondent and any witnesses that have primary knowledge of the allegations.<sup>1</sup>
  - (4) Employees are expected to cooperate with investigators and provide details of the incidents witnessed or experienced.<sup>1</sup>
  - (5) Respondents will be informed of the allegations against them and will be given an opportunity to reply to them, before the case is decided.
  - (6) Retaliation against any individual involved in a complaint is prohibited. Such retaliation constitutes grounds for disciplinary action.
  - (7) Complaints made in bad faith constitute grounds for disciplinary action. This does not include complaints that are made in good faith and not sustained.
  - (8) Where a complaint is found to have been made in bad faith, the Regional District of Okanagan Similkameen, in its discretion, will take remedial action.

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**DEFINITIONS:****Bill 14 – Bullying** (as defined by WorksafeBC)<sup>1</sup>

- (a) Includes any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but
- (b) Excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

**Complainant.** A complainant is an individual who reports an alleged instance of harassment, bullying<sup>1</sup> or discrimination.

**Complaint Made in Bad Faith.** This is a complaint that is known by the complainant to be false and/or a complaint that is made for a purpose other than gaining a satisfactory remedy. This definition does not include complaints made in good faith and not sustained.

**Discrimination.** Discrimination includes any act, behaviour, or practice that may be intentional or unintentional, that has either the purpose or effect of imposing burdens, obligations, disadvantages, or preferences, only on individuals or groups identified by a prohibited ground. Examples of identification on a prohibited ground include the discrimination against another person because of that person's race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age.

**Harassment.** Harassment includes verbal or physical behaviour that is discriminatory in nature, based upon another person's race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age. Harassment also includes discriminatory behaviour, directed at an individual, which could reasonably be expected to cause substantial distress in that person and serves no legitimate work-related purpose. Harassment is usually an ongoing process, but may be a one-time event.

Examples of Harassment include but are not limited to:

- (1) Physical threats or intimidation, including but not limited to: assault, punching or unwelcome physical contact such as touching, patting pinching or punching.
- (2) Unwelcome words, gestures, actions or practical jokes, the reasonable anticipated consequence of which is to humiliate alarm or abuse another person.
- (3) Distributing or displaying pornographic or other offensive or derogatory pictures or material unfit for family viewing.
- (4) Continually making someone the brunt of practical jokes or sarcastic, belittling remarks that cause awkwardness or embarrassment.
- (5) Unwelcome invitations or requests, whether indirect or explicit.
- (6) Intimidation/Bullying, including cyber bullying.<sup>1</sup>

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- (7) Condescension or patronizing that undermines self-respect.
  - (8) Targeting someone for differential treatment that has no reasonable basis and that imposes disadvantages on the individual.

**Investigating Officer.** Means the person who is charged with investigating a formal complaint.

**Non-Harassing Behaviours.** Behaviours that are reasonably enacted, such as those listed below, are not consistent with the definition of harassment:

- (1) Day to day management/supervisory functions and activities such as work assignments, performance management and discipline.
- (2) Assessment of work performance, even if adverse.
- (3) Demands for work excellence or a reasonable quality of work performance.

**Respondent.** Means a person who is accused of harassment or discrimination.

**Representative.** Means a person engaged by the complainant or respondent to protect their interests.

**Sexual Harassment.** This is a form of discrimination based on the prohibited ground of sex. Unwelcome conduct of a sexual nature constitutes harassment when there is unwanted sexual attention, sexual communications, sexual solicitation or other sexually orientated remarks or behaviour by a person or a group who knows, or ought reasonably to know, that such conduct is unwanted or unwelcome. Behaviour may be repeated or persistent or may be a single serious incident.

Examples of behaviour that may constitute sexual harassment will normally involve a pattern of behaviour that includes, but is not limited to one or more of the following:

- (1) touching, patting or physical contact.
- (2) leering, staring or the making of sexual gestures.
- (3) demands for sexual favours, with or without work related consequences.
- (4) verbal abuse or threats.
- (5) unwanted inappropriate sexual invitations.
- (6) physical assault of a sexual nature.
- (7) unwanted questions or comments of a sexual nature.
- (8) practical jokes of a sexual nature.

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**Time Limits.** Time limits in this Directive refer to those found in the collective agreement and describe the maximum time usually allowed to complete a procedure. Although every effort will be made to comply with the time limits specified, failure to meet a time limit will not negatively impact the process. Time limits for requesting an appeal will only be extended under exceptional circumstances.

**Worker.** Includes:

- (a) a person who has entered into or works under a contract of service, written or oral, express or implied, whether by way of manual labour or otherwise;
- (b) a member of a fire brigade working with or without remuneration, when serving a municipality or a regional district, or
- (c) a board or commission having the management or conduct of work or services on behalf of the Regional District.

**AUTHORITY:**

**The Board shall:**

- (1) make such revisions, additions or deletions to the Harassment, Bullying and Discrimination<sup>1</sup> Policy as may be required. Any significant changes shall be discussed with Employees.

**The Board Chair shall:**

- (1) decide on the appropriate action to address complaints regarding elected officials, volunteers and the Chief Administrative Officer (CAO).<sup>1</sup>

**The CAO shall:**

- (1) review the policy annually and present any suggested changes to the Board. Any significant changes shall be discussed with all workers.
- (2) decide on the appropriate action to address complaints against employees.

**The Human Resources Department shall:**

- (1) fully inform newly appointed workers of the Policy.
- (2) provide training on an ongoing basis.
- (3) ensure that all allegations and inquiries relating to harassment, bullying or discrimination<sup>1</sup> are investigated.
- (4) if acceptable to the parties attempt, without prejudice, to offer mediation or recommend a facilitator to facilitate a resolution.

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- (5) ensure that a concluding report resulting from a formal investigation as outlined in this Policy is written.

**The Workers shall:**

- (1) be aware of the Harassment, Bullying<sup>1</sup> & Discrimination Policy and comply with it.
- (2) report incidents of harassment, bullying or discrimination, including cyber bullying, witnessed or experienced.<sup>1</sup>
- (3) give consideration to addressing the situation in an informal environment to stop the behaviour.
- (4) accept responsibility for their own behaviour.
- (5) offer support to a known victim of harassment, bullying<sup>1</sup> or discrimination.
- (6) not indirectly support the harasser by ignoring what is happening.

**PROCEDURES:**

1. Complainants should make every attempt to informally resolve the situation.
2. Formal complaints or inquiries concerning the harassment, bullying or discrimination<sup>1</sup> towards any worker shall be made in writing to the CAO, applicable Department Manager, or Manager of Human Resources. Complaints regarding the CAO or elected officials shall be made to the Chair and, in this case, the Chair shall fulfill the obligations of the investigating officer in subsequent sections.
3. All complaints or inquiries will be treated as confidential.
4. The Human Resource department will keep a written record of investigations, including findings.<sup>1</sup>
5. A copy or summary of any written complaint received is to be provided as soon as is reasonably possible to the respondent with a requirement to provide a written answer to the complaint.
6. If there remains a disagreement between the parties, the Manager of Human Resources, or other facilitator mutually acceptable to the parties, can, with both party's consent, try to facilitate, without prejudice, communication between the parties so that agreement on a resolution of the complaint can be reached. This process involves:
  - (1) If possible or necessary, separating the parties in their workplace.
  - (2) Discussing separately with both persons the options open to them.
  - (3) Ensuring separately that both parties want to participate in the process.

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- (4) Facilitating communication between the parties so that they can reconcile differences and agree on a solution.
7. Complainants and/or respondents who believe that a matter has not been addressed using the steps above may request a formal investigation in writing to the Manager of Human Resources. The Manager of Human Resources shall then determine the appropriate technique, which may include an independent investigator to investigate:
    - (1) All complaints or inquiries concerning the harassment, bullying or discrimination<sup>1</sup> towards an employee.
    - (2) On his/her own initiative, or by order of the CAO, the conduct of an employee where he/she determines an investigation is warranted.
    - (3) Write and submit to the CAO or Chair a report of the complaint(s) and the circumstances.
  8. The CAO or Chair shall summarize the findings of the investigation in written or oral form and forward and/or present to the respondent and the complainant his/her findings on the appropriate remedial action to be taken.
  9. Where the CAO or Chair determines the conduct referred to him/her does breach the Harassment Directive, the CAO or Chair may take disciplinary action in accordance with the normal progressive discipline system.
  10. The respondent, if found to be in contravention of this Policy by the CAO or Chair, shall have the opportunity to appeal the findings of the CAO or Chair in accordance with the following:
    - (1) Union workers will use the process outlined in the BCGEU employment agreement.
    - (2) Exempt workers will appeal to the RDOS Board Chair.
    - (3) CAO, Directors and Volunteers will appeal to the RDOS Board.
  11. The CAO or Chair may, in isolation of any disciplinary measures specified, take corrective action to protect the complainant and return him or her to a productive working environment.
  12. Appropriate corrective actions will be taken within a reasonable period of time.<sup>1</sup>

#### **FURTHER ACTION**

1. It is recognized that following an outcome, support may be required for other staff within a department or who have been involved in an investigation and this will be provided as appropriate.
2. If it is concluded that there is no case of harassment to answer, but that there are problems with a working relationship and certain interventions may be necessary, then an action plan should be agreed upon between the parties and the Human Resources Manager.

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3. All individuals should be offered the opportunity for a de-briefing or counseling as appropriate.

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<sup>i</sup> Policy amended March 19, 2015 by Board resolution