



Policy No. 7.13

Adopted by Council: May 9, 2011
Amended by Council: September 15, 2014

ANTI-BULLYING AND HARASSMENT POLICY, 2011

The Corporation of the District of Sooke (“District”) respects the rights and interests of all individuals and is committed to providing a working environment free of bullying and harassment. Bullying and harassment is not acceptable or tolerated in the District workplace. The District will make every reasonable effort to ensure that no Council member, District officer, employee or volunteer is subjected to either bullying or harassment.

The District will take disciplinary measures, corrective action, or any other appropriate action as is deemed necessary and as outlined in this Policy against any person who is found to have bullied or harassed another.

Purpose:

To affirm the District’s commitment to providing a workplace free of bullying and harassment, and to comply with the *Workers Compensation Act* and the *Human Rights Code* as amended from time to time

Procedure:

1.0 Responsibilities

- 1.1 Council members, District officers, employees and volunteers all have a responsibility to not engage in the bullying and harassment of others in the workplace. They also have an obligation to be proactive to ensure that the workplace remains free from bullying and harassment. They must ensure that bullying and harassment is not allowed, condoned or ignored and must report if bullying or harassment is observed or experienced. Those in positions of authority can often be the first contact for those seeking assistance with bullying and harassment concerns and have an added responsibility for preventing recurrences and escalation.
- 1.2 Council members, District officers, employees and volunteers must apply and comply with this policy and strive to have a clear understanding of what constitutes bullying and harassment and what their responsibilities are, as well have an awareness of the District’s processes to prevent, educate and deal with bullying and harassment of all forms.

2.0 Scope of the Policy

- 2.1 This Policy covers bullying and harassment complaints in the workplace.
- 2.2 This Policy does not cover legitimate workplace related actions by District officers, directors, Chief Administrative Officers and supervisors, which may include but is not limited to work direction or assignment, performance appraisal, attendance monitoring and implementation of disciplinary or other corrective actions.
- 2.3 This Policy is not meant to inhibit interactions or relations based on mutual consent or normal and acceptable social contact and banter.

3.0 Application of the Policy

- 3.1 This Policy applies to all complaints made by Council members, District officers, employees or volunteers of alleged bullying or harassment by any Council member, District officer, employee or volunteer. This Policy applies to bullying and harassment that is work related whether it occurs at the workplace itself and includes, without limitation, job related travel and job related social functions.

4.0 Definitions

- 4.1 **District officer** includes the Chief Administrative Officer, Financial Officer, Corporate Officer, and other officers appointed by Council pursuant to the *Community Charter*, S.B.C. 2003, c. 26, as amended from time to time.
- 4.2 **District employee** includes District Officers, supervisors, and union and non-union staff employed by the District.
- 4.3 **Bullying and harassment** includes any inappropriate conduct or comment by a person towards another individual that the person knew or reasonably ought to have known would cause that individual to be humiliated or intimidated. It can be related to unwelcome or objectionable conduct or comment that would be considered discriminatory under the *Human Rights Code*, if the conduct or comment was in respect of any of the following prohibited grounds:

- race
- conviction for an offence
- colour
- ancestry
- physical disability
- place of origin (birthplace)
- mental disability
- political belief
- sex
- religion
- age
- marital status
- sexual orientation
- family status

Bullying and harassment includes complaints that are not based on the prohibited or protected grounds set out in the *Human Rights Code*, but on other forms of mistreatment, that has the purpose or effect of intimidating or isolating an individual.

Examples of conduct or comments that might constitute bullying and harassment include:

- verbal and non-verbal aggression or insults
- calling someone derogatory names
- harmful hazing or initiation practices
- vandalizing personal belongings
- spreading malicious rumours

4.4 **Sexual harassment** is any verbal, written or physical conduct, comment, gesture or contact of a sexual nature that may cause offence or humiliation or that might reasonably be perceived by the subject of the harassment as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.

Examples of sexual harassment include but are not limited to:

- unwelcome remarks, questions, jokes, innuendo or taunting, about a person's body or sex, including sexist comments or sexual invitations
- verbal abuse and threats of a sexual nature
- leering, staring or making sexual gestures
- display of pornographic or other sexual materials in the form of degrading pictures, graffiti, cartoons or sayings
- unwanted physical contact such as touching, patting, pinching, hugging
- intimidation, threat or actual physical assault of a sexual nature
- sexual advances with actual or implied work related consequences

Note: *While it may not be a harasser's intention for bullying, harassment or sexual harassment to occur, the intent of a harasser may be an irrelevant factor in a consideration of whether harassment has or has not occurred.*

4.5 **Volunteer** means a person serving the District of Sooke who is not a Council Member or District officer or employee and includes a person serving on any board, commission or committee established by the District.

4.6 **Workplace** includes, but is not limited to, work sites such as the Municipal Hall, Operations Centre, Fire Hall, parks locations and buildings, and construction or maintenance sites, business related social functions, work locations away from the office, work related conferences and training sessions, work related travel, telephone conversations, voice mail and electronic messaging.

5.0 Complaint Resolution Procedures

5.1 Confidentiality and Anonymity

5.1.1 Allegations of bullying and harassment may require the disclosure of sensitive information. Confidentiality will be maintained to the extent possible to ensure that those who may have been bullied or harassed feel free to come forward and are confident that their reputations will be protected throughout the process. It is the responsibility of all parties involved to respect this intent of confidentiality.

5.1.2 Confidentiality must, however, be distinguished from anonymity. If a complainant wishes to file a formal complaint and proceed with an investigation, the respondent must be made aware of the nature of the complaint, which may include the identity of the complainant. Information will only be disclosed on a “need to know” basis and where disclosure is required to fairly investigate a complaint or as required by law.

5.2 Informal Procedure

5.2.1 An individual who believes he or she has a complaint under this policy may bring the matter to the attention of the person responsible for the conduct and advise the conduct is unwelcome and request that it stop immediately. This is an important step to ensure that the person knows that his or her conduct is unwelcome. If disapproval has been made known to the person and the bullying or harassment persists, a written record of the continuing acts of bullying or harassment should be kept. If after discussing a complaint with the person, the complaint is dealt with to an individual’s satisfaction, the issue is considered to be resolved.

5.2.2 If an individual does not feel comfortable speaking to the person responsible for the conduct, or if after confronting the person the conduct persists, the individual should report the matter as set out below.

5.3 Informal Process and Mediation

5.3.1 Individuals covered by this policy who consider that they have been subjected to bullying or harassment may choose to consult an advisor, as follows.

- a. If the individual is a Council or Committee member, the advisor can be the Mayor or Chief Administrative Officer.
- b. If the individual is a District employee, the advisor can be their immediate supervisor, any member of the District’s management team, or the Chief Administrative Officer or designate.

Where there is a conflict between the Collective Agreement and a District Policy the Collective Agreement shall apply.

- c. If the individual is a volunteer, the advisor can be the Chief Administrative Officer or designate.
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- 5.3.2 Discussions regarding the complainant's concerns will be considered advisory and informal in nature. If the advisor reasonably believes that bullying or harassment has occurred, the advisor will determine whether or not the alleged harasser has been made aware of the objectionable or unwelcome conduct. Where this has occurred but the alleged harasser's behaviour has persisted or where this has not occurred but the complainant is not comfortable doing so, the advisor may intervene at the complainant's request and inform the alleged harasser of the objectionable behaviour.
 - 5.3.3 The advisor will also review this policy with the complainant and discuss various choices to assist the complainant in deciding which course of action is most appropriate.
 - 5.3.4 At the request of the complainant and with the agreement of the respondent, the Chief Administrative Officer or Mayor, as applicable, will select an independent third party to act as a mediator to assist the individuals in resolving the complaint through mediation. The role of the mediator is to help the complainant and respondent come to an agreement, and not to advocate a position or impose a decision.
 - 5.3.5 Both the complainant and the respondent may be accompanied by a representative of their choice during mediation. If the complaint is resolved by the mediation, a written record of the complaint and the resolution will be given to the complainant, respondent and the Chief Administrative Officer or Mayor. Should there be recommendations for the employer to consider, the mediator will forward these recommendations as well to the Chief Administrative Officer or Mayor.
 - 5.3.6 If mediation is not successful in resolving the complaint, the complainant can submit a formal complaint as set out below within 10 working days of the conclusion of the mediation process.
 - 5.3.7 A matter dealt with to the complainant's satisfaction is considered to be resolved.
 - 5.3.8 If the matter is not dealt with to the complainant's satisfaction, the complainant can submit a formal complaint as set out below.

5.4 Formal Process

- 5.4.1 Incidents or complaint should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated and addressed promptly.
- 5.4.2 A complainant may submit a complaint in writing to the Chief Administrative Officer within 6 months of the most recent incident. This time limit can be extended with the agreement of the complainant and the Chief Administrative Officer. If the respondent is the Chief Administrative Officer, the written complaint should be submitted to the Mayor.
- 5.4.3 The written complaint should include as much information as possible including:
 - a. Name of the complainant and respondent(s)
 - b. Name of any other people involved
 - c. Where and when the event(s) occurred
 - d. A detailed description of the behaviour or words that led to the complaint
 - e. Any prior attempts to resolve

Attach any supporting documents such as emails, handwritten notes or photographs

- 5.4.4 The District reserves the right to proceed with an investigation under the Formal Process even if the complainant withdraws the complaint.
- 5.4.5 All complainants and respondents have the right to be represented by their union representative or a representative of their choice during an investigation.
- 5.4.6 Investigations will:
 - a. Be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances;
 - b. Be fair and impartial, providing the complainant and respondent equal treatment in evaluating the allegations;
 - c. Be sensitive to the interests of all parties involved;
 - d. Be focused on finding facts and evidence, including interviews of the complainant, respondent and any witnesses;

- 5.4.7 The investigation will include interviews with the complainant, respondent and any witnesses. The investigator will also review any evidence such as emails, handwritten notes or photographs.
- 5.4.8 Within ten(10) days of receiving a written complaint, the Chief Administrative Officer or Mayor, as applicable, will review the complaint and will determine whether he or she will investigate the complaint. The Chief Administrative Officer or Mayor can designate another senior manager or an external third party to investigate the complaint.
- 5.4.9 Employees, Council members and volunteers are expected to cooperate with investigators and provide any details of incidents they have experienced or witnessed.
- 5.4.10 The Chief Administrative Officer will prepare a report after completing the investigation. Where the investigation is delegated to a third party, the Investigator will prepare a written report and provide it to the Chief Administrative Officer or Mayor, as applicable. The report should contain a description of the allegations, a summary of the evidence of the parties and witnesses and a determination of whether bullying or harassment has occurred. The report may also include recommendations regarding the resolution of the complaint.
- 5.4.11 After reviewing the report, the CAO or Mayor as applicable will make a decision on the appropriate disciplinary action, if any, and take such action as the CAO or Mayor considers appropriate in the circumstances, including discipline up to and including dismissal.
- 5.4.12 The District will keep a written record of investigations, including the findings.
- 5.4.13 The Chief Administrative Officer is responsible for ensuring workplace investigation procedures are followed.
- 5.4.14 A Council member, District officer, employee or volunteer who knowingly makes a false, frivolous, bad faith or malicious report under this Policy may be subject to discipline.
- 5.4.15 A Council member, District officer, employee or volunteer who retaliates against an individual who has made a report under this policy may be subject to discipline.

6.0 Training and Education

- 6.1 The Chief Administrative Officer or designate, as part of staff training, will take steps to provide education to Council members, District officers and employees,

and volunteers on this and how to prevent bullying and harassment from occurring in the workplace.

- 6.2 The Chief Administrative Officer or designate will ensure that the necessary training has been provided to those who may be involved in the investigative process and that they are made aware of their role and responsibilities.
- 6.3 The Chief Administrative Officer or designate will take steps to provide training updates or review on an annual basis or as required.
- 6.4 Once a complaint has been investigated in accordance with the above complaint resolution procedures, and it has been confirmed that bullying or harassment occurred, the Chief Administrative Officer or designate will determine if any additional training or education is required for the involved parties or if meetings with the affected parties are necessary. The Chief Administrative Officer or designate will also review and revise workplace procedures to prevent any future bullying and harassment incidents in the workplace.

7.0 General

- 7.1 This policy will be provided to all employees, Council members and volunteers and posted in visible and accessible locations within the Municipal Hall and on the District's website.
- 7.2 In the event that any portion of this policy is inconsistent with a binding District collective agreement or federal or provincial legislation, that portion and only that portion of this policy will have no application to the extent of that inconsistency and all other portions of the policy will continue in full force and effect.
- 7.3 This policy is to be read in conjunction with other applicable District policies or employee handbooks as they are amended from time to time.
- 7.4 Any questions related to the interpretation of this policy should be directed to the Chief Administrative Officer or designate.
- 7.5 This policy and the above procedures will be reviewed on an annual basis.