



Policy No. 7.13

Adopted by Council: May 9, 2011
Amended by Council: September 15, 2014
Amended by Council: May 8, 2017

ANTI-BULLYING AND HARASSMENT POLICY

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 in any form is not acceptable and will not be tolerated in any District workplace. The District will make every reasonable effort to ensure a bullying and harassment-free workplace for all District employees, volunteers, and Council members.

The District will take preventative measure, corrective action or disciplinary measures, to ensure a bullying and harassment-free workplace.

This policy addresses:

- Any act of Harassment or Workplace Sexual Harassment pursuant to the BC Worker's Compensation Act.
- Any act of Harassment and/or Discrimination pursuant to the BC Human Rights Code.
- Any act of personal bullying, harassment or disrespect not addressed by the BC Worker's Compensation Act, the BC Human Rights Code and Employment Standards Act.

The District's commitment to providing a workplace free of bullying and harassment, with the Workers Compensation Act, the BC Human Rights Code, Employment Standards Act and the Community of Charter as amended from time to time, is in compliance.

This policy will be reviewed on an annual basis in consultation with the District's Joint Health and Safety Committee.

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.

The purpose of this policy is to:

- Foster a workplace of respectful behaviour and promote awareness of human rights.
- Prevent all forms of bullying, harassment and discrimination based on the prohibited grounds as identified the above noted legislation.
- Prevent all forms of personal bullying, harassment and disrespectful behaviour.
- Prevent all forms of bullying and harassment through education, early identification and corrective discipline, where appropriate.
- Meet the District's ethical and legal obligations to establish, promote, and maintain a workplace free from bullying, harassment, discrimination and disrespectful behaviour.
- Provide procedures for investigating and resolving complaints of bullying and harassment, as well as remedying situations when instances of bullying, harassment and discrimination occur.
- Ensure all staff feel safe at work.

1.0 Definitions

1.0.1 ***Allegation*** – Allegation is an unproven assertion or statement based on a person's perception.

1.0.2 ***Bullying and harassment*** – 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, whether real or perceived. Bullying and harassment is considered discriminatory under the BC Human Rights Code, if the conduct or comment was in respect of any of the following prohibited grounds:

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| • race | • political beliefs |
| • conviction for an offence | • gender |
| • skin colour | • religion |
| • ancestry | • age |
| • physical disability | • marital status |
| • place of origin (birthplace) | • sexual orientation |
| • mental disability | • family status |

1.0.3 Bullying and harassment can also include complaints that are not based on the prohibited or protected grounds set out in the previously noted legislation and in section 1.0.2. Other forms of mistreatment that has the purpose or effect of intimidating or isolating an individual include:

- Verbal and non-verbal aggression or insults
- Calling someone derogatory names
- Harmful hazing or initiation practices
- Vandalizing personal belongings
- Spreading malicious rumours

1.0.4 ***Complainant*** – Complainant is the person alleging that a bullying or harassment occurred. There can be more than one *Complainant* within a complaint.

1.0.5 ***Discrimination*** – Discrimination includes unequal treatment based upon any of the *prohibited grounds* outlined in the previously noted legislation.

1.0.6 ***District officer*** – 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.

1.0.7 ***District employee*** – District employee includes District Officers, management, and union and non-union staff employed by the District.

1.0.8 ***Sexual harassment*** – 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.

1.0.9 Examples of sexual harassment include but are not limited to:

- Unwelcome remarks, questions, jokes, innuendo or taunting, about a person's body or gender, including gender-specific comments or sexual invitations.
- Verbal abuse and threats of a sexual nature.
- Leering, staring or making gender-specific 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 and kissing.
- Expressions of gender bias, which may include remarks that are discriminatory, degrading or derogatory and create or contribute to a poisoned work environment.

- Intimidation, threat or actual physical assault of a sexual nature.
- Sexual advances with actual or implied work related consequences.
- Sending suggestive letters, notes, or e-mails.

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

1.0.10 Mediation – Mediation includes a voluntary process where parties in dispute consent to meet with a mediator to determine whether the dispute can be resolved in a mutually satisfactory manner. *Mediation* discussions between parties are treated as private and confidential to the full extent permitted by law; however, any agreed outcomes will be shared with the Human Resources department and the Chief Administrative Officer, or designate, or Mayor in his/her capacity to oversee the file.

1.0.11 Respondent – Respondent is the person who is alleged to be responsible for the harassment or discrimination. There can be more than one *Respondent* within a complaint.

1.0.12 Volunteer – 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.

1.0.13 Workplace – Workplace includes, but is not limited to, work sites such as the Municipal Hall, Operations Centre, Fire Hall, Wastewater Treatment Plant, 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.

2.0 Harassment under this policy does not include conduct that a reasonable person would find welcome or neutral. This Policy is not intended to curtail welcome, appropriate workplace interaction.

2.0.1 Some examples of conduct that is not harassment include, but are not limited to:

- The exercise of the District's right to direct the workforce, including supervising, managing and giving appropriate and legitimate performance feedback, evaluation, coaching, and appropriate discipline.
- Stress associated with the performance of job duties.
- Welcome mutually consensual relationships or social invitations that do not involve inappropriate or offensive behaviours, intimidation, explicit or implicit threat of retaliation, or misuse of power.

3.0 Roles, Rights and Responsibilities

3.0.1 Management

3.0.2 The Chief Administrative Officer is responsible for the implementation and administration of this policy. The Chief Administrative Officer shall assess the complaint for appropriate action and exercise his/her discretion as to who in management is advised of the complaint and its findings.

3.0.3 The Chief Administrative Officer shall:

- Appoint an investigator(s) as soon as possible.
- Consult with the investigator(s) to set a reasonable period for the completion of the investigation.
- Review the findings and recommendations.
- Determine the outcome and the appropriate action to be taken, which may include education, training or disciplinary action, dependent upon the results.
- Ensure the *Complainant* and *Respondent* are informed of the outcome, in writing, in a timely fashion and that appropriate education and such other proactive measures are necessary for a workplace free from bullying, harassment and discrimination.
- Maintain confidentiality.

3.0.4 Management are obligated to:

- Ensure mechanisms are in place and supported within their department and/or area of responsibility to provide a workplace free from bullying and harassment.
- Acknowledge all incidents of bullying and harassment in their area of responsibility that they become aware of, even if a formal complaint has not been filed or is not in written format.

- If a verbal or written complaint is filed, immediately acknowledge the complaint and advise the Human Resources department.
- Within ten (10) business days of receipt of an informal complaint, HR Personnel will attempt to resolve the complaint, unless the situation warrants immediate referral for formal investigation.
- Participate in all aspects of the complaint process including, but not limited to investigation proceedings.
- Maintain confidentiality and sign a Bullying and Harassment Confidentiality Agreement.

3.0.5 *Complainants*

3.0.6 *Complainants* have a right to:

- Make a complaint and receive a copy of the complaint.
- Upon request, be accompanied by a union representative during the complaint process.
- Be informed regarding the status and progress of the investigation.
- Be informed of the results of the investigation in writing including validation of any corrective action that has been taken or will be taken as a result of the investigation.
- Not be subject to retaliation for the reason of having made a complaint under this policy.
- Prepare a list of allegations if required.
- Withdraw a complaint at any time during the procedure; however, depending on the nature of the issue, the Human Resources department or the Chief Administrative Officer, designate, or Mayor may determine that an investigation is required and the process will continue notwithstanding the withdrawal.

3.0.7 It is the responsibility of the *Complainant* to:

- Maintain confidentiality within the *workplace*.
- Sign a Bullying and Harassment Confidentiality Agreement.

3.0.8 Respondents

3.0.9 Respondents have a right to:

- Seek advice from Human Resources personnel, Chief Administrative Officer, or designate, or Mayor, or Union Representative.
- Retain a record of what occurred.
- Be informed that a complaint has been filed.
- Information regarding the status and progress of the investigation.
- Have the allegations provided to the Investigator.
- Respond to the *allegations*.
- Upon request, be accompanied by a union representative, where applicable, during the complaint process.
- Be informed of the results of the investigation in writing and validation of corrective action that has been taken or will be taken as a result of the investigation.

3.0.10 It is the responsibility of the *Respondent* to:

- Follow all procedures under this policy
- Cooperate with all those responsible for dealing with the investigation of the complaint.
- Maintain confidentiality and sign a Bullying and Harassment Confidentiality Agreement.

3.0.11 Witnesses

3.0.12 Witnesses have the right to:

- Not be subject to retaliation because he/she has participated as a witness.

3.0.13 It is the responsibility of the Witness to:

- Meet with the investigator and to cooperate with all those responsible for the investigation of the complaint.
- Maintain confidentiality with respect to the investigation (subject to their right to consult union representation, where applicable).
- Sign a Bullying and Harassment Confidentiality Agreement.

3.0.14 Investigators

3.0.15 The investigator shall:

- Ensure the *Respondent* is informed of the allegations.
- Ensure all parties involved have been informed of their rights and responsibilities.
- Interview the parties concerned and any witnesses.
- Collect all pertinent information.
- Recommend a *mediation* process where appropriate.
- Prepare a report.
- Ensure the investigation is completed in a timely fashion taking into account particular circumstances.
- Maintain confidentiality.

4.0 Scope of the Policy

4.0.1 This Policy covers bullying and harassment complaints in the workplace.

4.0.2 This Policy does not cover legitimate workplace related actions by District officers, management and Chief Administrative Officer which may include but is not limited to work direction or assignment, performance appraisal, attendance monitoring and implementation of disciplinary or other corrective actions.

4.0.3 This Policy is not meant to inhibit interactions or relations based on mutual consent or normal and acceptable social contact and banter.

5.0 Application of the Policy

5.0.1 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.

5.0.2 If District's staff are being bullied and harassed against by non-District employees such as members of the public, contractors, consultants, and delivery or service people – the District is obligated to respond.

6.0 References

The following documentation and regulation may be referred to in relation to the creation and maintenance of the Bullying and Harassment Policy:

- Anti-Bullying and Harassment Acknowledgement Form
- Bullying and Harassment Confidentiality Agreement
- 7.10 Code of Ethics Policy
- 7.11 Respectful Workplace Policy
- BC Worker's Compensation Act
- Workers Compensation Act
- Employment Standards Act

7.0 Complaint Resolution Procedures

7.0.1 Confidentiality and Anonymity

7.0.2 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 confidentiality.

7.0.3 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.

7.0.4 All individuals who come in contact with information pertaining to bullying and harassment complaints, investigations and related records are expected to treat the information as confidential. Such information shall be handled in accordance with the Freedom of Information and Protection of Privacy Act (FOIPPA). However, it must be recognized that in some cases, absolute confidentiality cannot be guaranteed by management, HR personnel, Chief Administrative Officer, or designate, or Mayor (due to conflicting legal obligations). Where required, information regarding the

complaint will be shared with the appropriate management, or as otherwise required by law.

- 7.0.5 Failure to respect the confidentiality of the process may interfere with the investigation's findings. If it is found that someone has violated the confidentiality of the process, they will be subject to disciplinary action, including dismissal.

8.0 Informal Procedure

- 8.0.1 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.

- 8.0.2 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.

8.0.3 Informal Process and Mediation

- 8.0.4 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, HR personnel or the Chief Administrative Officer, or designate.
- c. If the individual is a volunteer, the advisor can be the Chief Administrative Officer, or designate.

- 8.0.5 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.

8.0.5 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.

8.0.7 At the request of the *complainant* and with the agreement of the *respondent*, the Chief Administrative Officer, or designate, 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.

8.0.8 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*, HR personnel and the Chief Administrative Officer, or designate, or Mayor. Should there be recommendations for the employer to consider, the mediator will forward these recommendations as well to HR personnel and the Chief Administrative Officer, designate, or Mayor.

8.0.9 If mediation is not successful in resolving the complaint, the *complainant* can submit a formal complaint as set out below within ten (10) business days of the conclusion of the mediation process.

8.0.10 A matter dealt with to the *complainant's* satisfaction is considered to be resolved.

8.0.11 If the matter is not dealt with to the *complainant's* satisfaction, the *complainant* can submit a formal complaint as set out below.

9.0 Formal Procedure

9.0.1 Incidents or complaints should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated and addressed promptly.

- 9.0.2 The *complainant* will complete the Bullying and Harassment Incident Report, attach any supporting documentation such as emails, handwritten notes or photographs and submit it to the Human Resources department in a sealed envelope that is clearly marked private and confidential.
- 9.0.3 The *complainant* will submit the Bullying and Harassment Incident Report to the Human Resources department within three (3) months of the most recent incident. This time limit can be extended by submitting a written reason for the extension along with the Bullying and Harassment Incident Report with the agreement of the *complainant* and the Chief Administrative Officer. If the *respondent* is the Chief Administrative Officer, the written reason for the extension along with the Bullying and Harassment Incident Report should be submitted to the Mayor.

Attach any supporting documents such as emails, handwritten notes or photographs.
- 9.0.4 The District reserves the right to proceed with an investigation under the Formal Process even if the *complainant* withdraws the complaint.
- 9.0.5 All *complainants* and *respondents* have the right to be represented by their union representative or a representative of their choice during an investigation.
- 9.0.6 Investigations will:
- Be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances.
 - Be fair and impartial, providing the *complainant* and *respondent* equal treatment in evaluating the allegations.
 - Be sensitive to the interests of all parties involved.
 - Be focused on finding facts and evidence, including interviews of the *complainant*, *respondent* and any witnesses.
- 9.0.7 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.
- 9.0.8 Within ten (10) business days of receiving the Bullying and Harassment Incident Report and possible written motive for extension, HR personnel, Chief Administrative Officer, or designate, or the Mayor, as applicable, will review the complaint and will determine whether he or she will investigate

the complaint. The Chief Administrative Officer, or designate, or Mayor can designate another senior manager or an external third party to investigate the complaint.

- 9.0.9 Council members, District officers, employees and volunteers are expected to cooperate with investigators and provide any details of incidents they have experienced or witnessed.
- 9.0.10 HR personnel or 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 designate, 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.
- 9.0.11 After reviewing the report, the Chief Administrative Officer, or designate, or Mayor as applicable will decide on the appropriate education, corrective action or disciplinary action, and take such action as the Chief Administrative Officer, or designate, or Mayor considers appropriate in the circumstances, including discipline up to and including dismissal.
- 9.0.12 The District will keep a written record of investigations, including the findings in the appropriate HR files.
- 9.0.13 The Chief Administrative Officer is responsible for ensuring workplace investigation procedures are followed in a timely manner. Refer to section 10.0 Formal Process.
- 9.0.14 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, including dismissal.
- 9.0.15 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, including dismissal.

10.0 Formal Process

Step 1: File a complaint

The *Complainant* submits a clear and concise complaint in writing using the Bullying and Harassment Incident Report to the Human Resources department. If this *respondent* is HR personnel, the incident report will be submitted to the Chief Administrative Officer, or designate. The Bullying and Harassment Incident Report shall be completed in full, signed, dated and submitted as soon as possible, but within three (3) months of the last alleged incident.

Step 2: Screening and Acknowledgement of Complaint

- a) Upon receipt of the Bullying and Harassment Incident Report, Human Resources department will acknowledge the complaint through written communication in a timely manner. Within ten (10) business days, an HR personnel, Chief Administrative Officer, or designate, or outside representative will commence an impartial investigation of the complaint, in the event that an investigation is required as determined by the Chief Administrative Officer, or designate, or Mayor. HR personnel, Chief Administrative Officer, or designate, or Mayor will advise the *Respondent* of the complaint, and other applicable parties where determined appropriate.
- b) If the Human Resources department, Chief Administrative Officer, or designate, or Mayor decides not to conduct an investigation, he/she will provide the reasons to the *Complainant*.

Step 3: Investigation

- a) Where an investigation is required, the investigator will interview the *Complainant*, *Respondent*, direct manager of the *complainant* and the Respondent and any witnesses individually. The investigation interviews will be documented and signed to confirm accuracy. All participants will be asked to maintain confidentiality and sign off accordingly.
- b) Every effort will be made to conduct an expedient investigation. However, due to extenuating circumstances that may arise, the process may be delayed beyond the control of the investigator.

Step 4: Documentation

Once the investigation is complete, the investigator will prepare a written report for the Chief Administrative Officer, or designate, or Mayor or identifying the findings of the allegation(s). The Chief Administrative Officer will determine the next appropriate, potentially corrective, measures.

Step 5: Mediation

- a) Where it has been determined to be feasible and where the *Complainant* and *Respondent* concur, a mediated solution to the dispute will be attempted. If acceptable to the *Complainant* and the *Respondent*, a HR personnel or outside source will mediate the dispute as determined by the Chief Administrative Officer. Both parties will have the right to an interpreter, if required.
- b) Mediation may be attempted at any point in the process addressing the complaint where it is considered to be appropriate and have a reasonable chance of resolving the complaint.
- c) *Note: Prior to mediation, both parties must agree to the terms of mediation and sign an Agreement to mediate. It must be understood that if a settlement* is reached, that it would have to be satisfactory to both parties, and the mediation settlement is binding to both parties. All mediation discussions will be held on a confidential, "without prejudice" basis.*

***such settlement must not violate or interfere with the collective agreement, this policy or the operation of the relevant department.**

Step 6: Remedies

- a) The Human Resources department, Chief Administrative Officer, or designate, or Mayor will review the report to determine if the investigation reveals evidence to support the allegation(s) within the complaint. HR personnel or the Chief Administrative Officer, or designate, or Mayor will then inform the *Complainant* and *Respondent*, in writing, of the findings and, if warranted, validation of corrective action that has been or will be taken and any other action(s) (e.g. training, education, facilitated discussion).
- b) Where the findings of the investigation do not support the allegations, no reference to the incident will be placed on the *Respondents* HR personnel file. However, a Bullying and Harassment file is maintained in the Human Resources department.

11.0 Training and Education

- 11.0.1 The Chief Administrative Officer, or designate, as part of staff training, will take steps to provide education to Council members, District officers, employees, and volunteers on this policy and how to prevent bullying and harassment from occurring in the workplace.

- 11.0.2 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.
- 11.0.3 The Chief Administrative Officer, or designate will take steps to provide training updates or review on an annual basis or as required.
- 11.0.4 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.

12.0 General

- 12.0.1 This policy and acknowledgement form will be provided to all Council members, District officers, employees and volunteers and will be included in the new employee orientation process. This policy will be made available on the District's records management program.
- 12.0.2 District officers, employees or volunteers who refuse to sign the acknowledgement form may be subject to discipline or a delay in the commencement of employment.
- 12.0.3 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.
- 12.0.4 This policy is to be read in conjunction with other applicable District policies or employee handbooks as they are amended from time to time.
- 12.0.5 Any questions related to the interpretation of this policy should be directed to the Human Resources department or Chief Administrative Officer, or designate.
- 12.0.6 This policy and the above procedures will be reviewed on an annual basis.