

Bullying & Harassment Policy

Workers' Compensation Board of British Columbia ("WorkSafeBC") and Compensation Employees' Union ("CEU")

Statement of Commitment to the Employees of WorkSafeBC

WorkSafeBC and the CEU share a vision of a safe, healthy, and rewarding work environment.

WorkSafeBC and the CEU will not tolerate discriminatory harassment or personal harassment and bullying in any interactions connected to our workplace. All workers are entitled to be treated in a fair and respectful manner, aligned to our values and behaviours.

Under no circumstances will complaints of harassment be dismissed without due consideration or proper investigation. Complainants will be supported throughout the process. They will not be expected or instructed to deal with matters themselves.

WorkSafeBC and the CEU also recognize that WorkSafeBC employees may be subjected to workplace bullying or harassment by outside stakeholders; in those circumstances, WorkSafeBC and the CEU acknowledge their responsibility to support and assist persons subjected to such harassment.

WorkSafeBC and the CEU are in full and complete agreement with the purpose and practices set out in the Bullying and Harassment Policy ("Policy") and we are committed to the effective implementation and administration of the Policy. We commit to working in concert with the Policy to produce a workplace that is free of all forms of bullying and harassment.



Anne Naser
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Workers' Compensation Board of BC



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Bullying and Harassment Policy

Policy Statement

WorkSafeBC, in cooperation with the CEU, promotes a work environment that is characterized by professionalism, collaboration, cooperation, respect and fairness. This Policy prohibits conduct or comment defined below as either discriminatory harassment or personal harassment and bullying. WorkSafeBC will not tolerate discriminatory harassment or personal harassment and bullying in any interactions connected to our workplace. If such harassment has occurred, it is to be reported and may lead to remedial action.

This Policy is not intended to constrain normal social interactions and regular performance management.

Purpose

The purpose of this Policy is to assist all WorkSafeBC employees and contractors in identifying and preventing discriminatory and personal harassment in the workplace, and to provide procedures for reporting, investigating, and resolving incidents and complaints. It is intended to promote the well-being of everyone in the workplace and to foster the values of civility, respect, integrity and trust that are essential for a psychologically safe and inclusive organization.

Application and Scope

This Policy applies to all permanent and temporary bargaining unit, management, contractors, and to those with whom WorkSafeBC conducts business, at all sites where business activities are undertaken for WorkSafeBC. It applies to all situations where activities are connected to work with WorkSafeBC and could impact on employment during and outside of regular business hours at the workplace and away from the workplace. This includes, but is not limited to:

- Activities on WorkSafeBC premises
- Work performed and conducted outside of WorkSafeBC premises including an employee's remote-work location
- Work-related conferences, training sessions, or seminars
- Work-related travel
- Work-related social functions that WorkSafeBC sponsors or organizes
- Work-related interpersonal and electronic communications, such as email and messaging.

Definitions

Complaint - an incident(s) of alleged discriminatory or personal harassment reported pursuant to the terms of this Policy.

Complainant - an employee who has been subjected to alleged discriminatory or personal harassment.

Respondent - an employee who is alleged to have discriminated against, or personally harassed, a complainant.

Witness - an individual who has information that is relevant to the investigation, which may include an individual who is present at an event, and personally sees, hears, or knows something relevant to the event.

Investigator - an individual named by the chair of the Joint Harassment Committee to investigate, through fact-finding, formal complaints of discriminatory or personal harassment.

Discriminatory harassment - is contrary to the law. Discriminatory harassment is to cause physical or psychological harm to a worker and conduct related to employment at WorkSafeBC, which may occur at or away from the workplace within the "Scope" section of this Policy, and:

- i) Is based on or related to a prohibited ground of discrimination set out in the *Human Rights Code of British Columbia*, namely: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, age, or conviction for a criminal or summary conviction offence that is unrelated to employment; and
- ii) Is unwelcome or is of such a nature that it would be reasonable to assume that it is unwelcome; and
- iii) Detrimentally affects the work environment or leads to adverse job-related consequences for the complainant.

Examples of discriminatory harassment may include, but are not limited, to the following:

- Displays of offensive, derogatory, or sexually explicit pictures, photographs, cartoons, drawings, symbols, and other materials
- Unwanted and unnecessary touching, patting, pinching, or other suggestive physical contact
- Offensive remarks about sexual orientation
- Racist language, slurs, derogatory comments, and stereotypes
- The telling of racist or ethnic jokes that are by their nature embarrassing or offensive
- Threats or abuse based on colour, language, or ethnic background
- The display or distribution of racist cartoons, posters, graffiti, books, or pamphlets

Personal harassment and bullying - means one or more actions, inappropriate conduct or comment by any person, other than reasonable management actions, that can reasonably be expected:

- i) to be intimidating, humiliating or otherwise offensive to a worker; or
- ii) to cause physical or psychological harm to a worker.

Personal harassment may take many forms including, for example, behaviours, words, or actions, and can consist of a single incident or several incidents over a period of time. This definition excludes any reasonable management actions taken by a manager or supervisor relating to the management and direction of employees or the workplace. Day-to-day managerial functions and activities, such as work assignments, performance management, and progressive discipline are not considered personal harassment under this Policy. However, managerial functions and activities that meet the above criteria are not exempt from this Policy.

Personal harassment does not include every workplace conflict or interaction that an employee may find unpleasant. The harassment process should not be used to vent feelings of minor discontent or generalized dissatisfaction with life in the workplace.

Personal harassment may include bullying, ostracism, or hazing. Examples of specific behaviours that may constitute personal harassment include, but are not limited, to the following:

Verbal: epithets, derogatory comments, slurs, jokes, gossip, innuendo, abusive comments, ridicule, or yelling

Visual: posters, cartoons, drawings, gestures, or displays

Physical: touching, patting, blocking movements, or gestures

Threats or demands: suggestions or statements that certain unreasonable conduct needs to be accepted or that an employee needs to engage in unreasonable conduct in order to protect his or her employment or the benefits of a position

Retaliation: any suggestion of retaliation in respect to a complaint made under this Policy

Retaliation - is any action with a negative impact that is taken or threatened or suggested against a person in whole or in part because that person:

- i) Files a complaint pursuant to this Policy; or
- ii) Associates with a person who filed a complaint pursuant to this Policy; or
- iii) Participates in any way in an investigation of a complaint pursuant to this Policy; or
- iv) Reports any failure to follow through with a decision flowing from an investigation pursuant to this Policy.

Examples of retaliation may include, but are not limited, to the following:

- A threat of or actual demotion or involuntary transfer of an employee
- Negative changes in the terms or conditions of employment
- A denial of opportunities, including training opportunities
- Personal harassment, including ostracism or exclusion from normal social and professional interactions

When a harassment complaint is made in good faith, regardless of the outcome, the complainant and anyone providing the information will be protected from all forms of retaliation from co-workers and superiors.

Guidelines

This Policy is intended to respect the rights of all who may be involved in a complaint. The guidelines, requirements, and procedures contained in this Policy are designed to ensure that individuals feel as comfortable as possible in coming forward with a complaint, without fear of reprisal or retaliation. The procedures are also intended to protect the interests of respondents or others who may be involved in the complaint process.

Confidentiality

A governing principle in respect of any matter that is brought forward pursuant to this Policy is confidentiality.

Every effort will be made to keep matters confidential. WorkSafeBC holds the ultimate responsibility for determining the resolution of a complaint. Information will be disclosed as necessary during the complaint process to the following extent:

- i) To protect the safety or security of any individual involved in a complaint, or any other WorkSafeBC employee; or
- ii) To protect people not related to WorkSafeBC if any reasonable concerns for their safety are identified; or
- iii) To conduct a proper and fair investigation; or
- iv) To comply with the law or litigation.

To the extent that incidents take place in the workplace, other employees may be aware of, or have some knowledge of the situation. Steps will be taken to protect incidents of unacceptable behaviour or individuals involved in a complaint from being publicized in the workplace, if possible, without compromising an investigation.

Any party to an investigation or any employee involved in an alleged incident must not disclose the names of any other party or any circumstances related to the complaint, except as necessary to report an incident, investigate a complaint, take action flowing from an investigation, or meet legal requirements, including the *Freedom of Information and Protection of Privacy Act*.

Materials or written or electronic information related to a complaint or produced in an investigation will be maintained in secure, locked cabinets and offices or in password-protected electronic files by those people entitled to handle that information, namely the investigator(s), the chair of the Joint Harassment Committee and the chief human resources officer (head of People and Culture).

Disclosure of information contrary to the requirements set out above is a breach of this Policy and may be subject to disciplinary action.

Timeline for filing a complaint

Employees are requested to file harassment complaints as quickly as possible. Where a complaint is filed more than twelve months after the incident(s) on which the complaint is based, the chair of the Joint Harassment Committee will consider the reasons for the delay in filing the complaint, whether the delay will result in prejudice to any of the individuals involved, whether an investigation is required as a result of a WorkSafeBC claim for compensation relating to workplace bullying and harassment, and any other relevant circumstances.

Complaints filed for an improper purpose

An investigation may determine that a complaint is not supported or that there is no breach of this Policy. Such a finding does not automatically mean that the complaint was filed for an improper purpose.

If the investigation determines that the complaint was filed in bad faith or for an improper purpose, the complaint may be considered "frivolous or vexatious". Such complaints are those where the complainant or others know of no foundation in fact that would suggest a breach of this Policy, and where the complaint is filed for the purpose of bringing an adverse consequence to the respondent or another employee of WorkSafeBC. Such complaints in and of themselves are a breach of this Policy, and any employee engaged in the presentation or filing of such a complaint may be subject to discipline up to and including dismissal.

Procedures

How a bullying and harassment complaint will be handled

1. Who is required to file a complaint?

All WorkSafeBC employees and contractors must report any bullying or harassment they observe or experience. Where members of management become aware of alleged bullying and harassment, they have a responsibility to report such incidents.

2. How and to whom to file a B&H complaint?

An employee may report an incident or file a complaint with their manager, a people and culture representative, or the chair and co-chair of the Joint Harassment Committee regarding alleged harassment that they've observed or experienced. If it is not appropriate to report the incident or file the complaint with these individuals, because they are involved in the incident or complaint, the employee should report the incident or file the complaint with any other manager of their choice.

Alternately, if an employee prefers, they may report an incident or file a bullying and harassment complaint regarding alleged harassment that they've observed or experienced by contacting SafeSpeak, our customized and confidential account with IntegrityCounts. Complaints can be filed by contacting the SafeSpeak hotline, by email, by web page, via fax or by mail. When a complaint is made via SafeSpeak, there are no conflict-of-interest concerns regardless of whom the complaint is against.

Where members of management become aware of alleged harassment, they have a responsibility to report such incidents to the chair of the Joint Harassment Committee. If the chair of the Joint Harassment Committee is involved in the alleged harassment, they should report it to the director of Labour Relations.

Complaints do not have to be in writing, but where possible should include the name(s) of the individual(s) involved and a description of the incident(s), including the conduct or comment(s), place(s), date(s) and time(s).

3. Initial assessment

The chair of the Joint Harassment Committee will assess each complaint to determine if it falls within the Policy, and if so, the most appropriate and effective course of action. Complaints may be addressed through a formal or informal process.

4. Informal resolution is explored

The chair of the Joint Harassment Committee, in consultation with the co-chair, may pursue options for informal resolution of the complaint. At any time in the process, a resolution may be reached with the consent of the parties and the chair and co-chair.

Informal resolution may involve both the complainant and the respondent, but may also, at the complainant's election, be limited to the complainant seeking and receiving support, in which case the respondent may not be notified of the complaint.

5. Formal process - Investigator(s) are assigned

After an initial assessment of the complaint is completed, the chair of the Joint Harassment Committee, in consultation with the co-chair, will determine whether the conduct meets the threshold requirement for being handled under the Policy. If so, an appropriately trained investigator(s) will be assigned to the case. Depending on availability, complexity and time restrictions, the chair, in their sole discretion, can assign an internal or external investigator. The investigator(s) will act as fact finders. They will generally not be responsible for determining if there is a breach of the Policy or any outcomes from the investigation. These determinations

will generally be made by the head of People and Culture. In rare circumstances, an external investigator may be given the authority to determine whether a contravention of the Policy has occurred. In such an instance, the head of People and Culture will determine whether they agree with the opinion of the investigator and make a final decision as to whether there has been a contravention of the Policy.

6. Investigation is conducted

If the matter is not resolved informally, an investigation will be undertaken as quickly as possible. In order to conduct a fair and thorough investigation, the respondent will generally be provided with the complainant's name, and information on the particulars of the complaint, and be given an opportunity to respond.

7. Interviews are held

The complainant and the respondent, as well as any individuals who may be able to provide relevant information, will be interviewed individually. Those being interviewed can bring a support person but they cannot engage someone to "represent" them.

8. Investigator(s) report is filed

When the investigation is complete, the investigator(s) will file a report with the chair of the Joint Harassment Committee, which will set out the allegations, the responses, and the findings of fact made by the investigator(s). At the same time, they will turn in all the documentation they produced during the investigation to the chair and delete or securely and confidentially dispose of any copies. The report will not contain a recommendation on findings of culpability or discipline except in rare circumstances where external investigators have been requested to do so. The chair of the Joint Harassment Committee will then forward the report to the head of People and Culture.

9. The final outcome

The head of People and Culture may find either or both or neither the complainant nor respondent in contravention of this Policy. Determining culpability and discipline will be the sole responsibility of the head of People and Culture.

The head of People and Culture will inform, as soon as possible, the complainant and respondent in writing of the final outcome of the investigation.

9. Possible results

Not in contravention - no action taken

If the investigation fails to find sufficient evidence to support the complaint, it will be documented. Documentation concerning the complaint will not be placed in either the respondent's or the complainant's personnel file.

Not in contravention - corrective action taken

If the investigation fails to find sufficient evidence to support the complaint, but inappropriate personal interactions have occurred, the head of People and Culture may take corrective action. This may include providing direction and supervision to the affected employees, providing training to facilitate an understanding of appropriate personal interactions and management of difficult situations, and imposing workplace arrangements that minimize the risk of harassment, but exclude disciplinary measures. Documentation concerning the complaint will not be placed in either the respondent's or the complainant's personnel file.

Contravention - corrective action taken

If there is a finding of harassment, the head of People and Culture will take corrective action. This may include providing direction and supervision to the affected employees, providing training to facilitate an understanding of appropriate personal interactions and management of

difficult situations, and imposing workplace arrangements as a remedy to the contravention. Corrective action may also include disciplinary measures up to and including dismissal.

The disciplinary decisions of the head of People and Culture will be documented and placed in the culpable person's personnel file. No documentation of any kind will be placed in the aggrieved party's file.

Finding of a complaint made for an improper purpose

If there is a finding that a complaint is frivolous, vexatious, retaliatory, or otherwise made for an improper purpose, the head of People and Culture may impose discipline up to and including dismissal of the complainant or the party who brought forward the complaint.

In this case, the disciplinary decisions of the head of People and Culture will be documented and placed in the complainant's personnel file. No documentation of any kind will be placed in the respondent's personnel file.

10. Implementation

The chair of the Joint Harassment Committee will retain the investigation report and any documentation related to the investigation in a secure confidential file.

Where action other than discipline is pursued, the chair of the Joint Harassment Committee will monitor and report separately on its implementation to the head of People and Culture. and to the Joint Harassment Committee.

11. Grievance procedure for bargaining unit employees

A member of the bargaining unit may grieve decisions of the head of People and Culture relating to the timeliness, scope of a complaint, culpability or discipline for harassment.

Complaints involving the chair of the Joint Harassment Committee, the head of People and Culture, or the president and CEO

These procedures will also apply if either the complainant or the respondent is the chair of the Joint Harassment Committee, the head of People and Culture, or the president and CEO. In the first case, the head of People and Culture will assume the function of the chair of the Joint Harassment Committee for the purpose of these procedures. In the second case, the president and CEO will assume the function of the head of People and Culture, for the purpose of these procedures. In the third case, discussions will be held with the chair of the Board of Directors as to the appropriate action.

Responsibilities for preventing harassment

All WorkSafeBC employees

Everyone in the workplace has a role in building a workplace free of harassment. All WorkSafeBC employees must do as follows:

- Behave in an inclusive and professional manner.
- Not engage in discriminatory or harassing behaviour.
- Apply and comply with the Policy and its related procedures.
- Ensure they understand the Policy. Lack of awareness of the Policy is not a defense for discriminatory or harassing behaviour.
- Attend scheduled training sessions designed to familiarize them with the Policy.
- Report any bullying and harassment they observe or experience by following process outlined under section titled Procedures.

Management

Management employees set the tone in the workplace and are role models for other employees. All managers must do as follows:

- Model inclusive and professional behaviour and not participate in discriminatory, bullying, or harassing behaviour.
- Follow the Policy and ensure that employees follow the Policy.
- Ensure that all employees are aware of and understand the Policy and regularly review it with their staff.
- Take action when they become aware of, receive complaints of, or personally observe, harassment.
- Report incidents or complaints of bullying and harassment by following process outlined under section titled Procedures.

Chair

The chair of the Joint Harassment Committee provides leadership to the Committee and is the guardian of the Policy. The chair works to ensure that the processes flowing from the Policy are fair, thorough, and timely. The chair must do as follows:

- Consult with the union co-chair.
- Liaise with union and management to ensure matters are dealt with and due process is followed.
- Assign investigator(s) and coordinate investigations. This includes providing advice and support to the investigator(s).
- Be neutral when receiving reports of possible complaints, gathering information, and processing complaints.
- Contact complainant(s) to confirm receipt of a complaint and keep them informed of the progress of their complaint.
- Advise the complainant and respondent of the support available to them, including EFAP, and other resources as applicable, such as the Alcohol and Drug Program and the Return-to-Work Program.
- Help complainants access the processes and remedies provided through the Policy.
- Ensure that complainants, respondents, witnesses, and their representatives are aware of their options and rights under the Policy.
- Monitor the outcomes of investigations and track the implementation of remedial action.
- Retain investigation reports and implementation documentation.

Committee members

Representatives of WorkSafeBC and the CEU jointly administer the Policy. Committee members do as follows:

- Promote appropriate workplace behaviour.
- Develop policy and procedures for reporting, processing, and investigating incidents of bullying and harassment.
- Make recommendations to the senior management on how to ensure WorkSafeBC complies with the *Workers Compensation Act* and Occupational Health and Safety Regulation, the *B.C. Human Rights Code* and the *Canadian Charter of Rights and Freedoms*.
- Make recommendations on education and training sessions for employees, managers, and investigator(s).
- May develop or participate in the development and delivery of employee, manager, and investigator training materials.
- Provide advice and support to investigator(s) and employees.

Internal harassment investigator(s)

The role of the internal investigator(s) is to conduct investigations of complaints as soon as possible after they have been filed. The investigator(s) do as follows:

- Impartially conduct investigations and act as fact finders.
- Prepare report(s) on the results of their investigations for the chair of the Joint Harassment Committee. The reports set out the allegations, responses, and their findings of fact.

External harassment investigator(s)

Where appropriate, an external investigator may be appointed by the chair of the Joint Harassment Committee, following consultation with the co-chair. The external investigator does as follows:

- Investigates the complaint in a timely manner.
- Conducts investigations and acts as a fact finder in an impartial manner.
- Prepares reports on the results of the investigation for the chair of the Joint Harassment Committee.
- The reports set out the allegations, responses, and findings of fact.
- In rare circumstances, may be given the authority to determine whether a contravention of the Policy has occurred.

Head of people and culture

The Head of People and Culture adjudicates (determines the outcome of) bullying and harassment complaints. Only the head of People and Culture can make decisions on the timeliness and scope of a complaint and can determine culpability (guilt or fault) and if discipline will result from a finding of culpability. The head of People and Culture does as follows:

- Reviews investigation reports and considers the facts to determine the outcomes of complaints.
- Informs the complainants and respondents in writing of the outcomes of investigations of complaints.
- Imposes discipline or takes other corrective action, such as providing direction and supervision to affected employees, providing training to facilitate an understanding of appropriate personal interactions and management of difficult situations, and imposing workplace arrangements that minimize the risk of harassment.

WorkSafeBC Enterprise Leadership Team and the CEU Executive

The WorkSafeBC Enterprise Leadership Team and Compensation Employees' Union Executive are responsible for reviewing and approving accordingly all recommendations, policies, and procedures developed by the Joint Harassment Committee.

Additional information

Keep a record of the incident(s)

We recommend that you keep a record of the incident(s), including, where possible, dates, times, locations, possible witnesses, what happened, specific comments, and your responses. You don't need to give all the details when you report the incident(s), but memories fade, and you may find it extremely helpful to have made notes right after the incident(s).

Contact a member of the Joint Harassment Committee

If you experience or observe harassment, contact a member of the Joint Harassment Committee for advice and support. That member can listen to your story and may give you some helpful guidance. We encourage you to come forward and talk about work-related harassment that you may be experiencing.

Professional counselling

You have the option of contacting an EFAP counsellor. EFAP counsellors are trained professionals and can provide valuable and confidential assistance over the phone or in person. Extended health benefits may be available to you to help cover the cost of professional counselling beyond EFAP.

Don't gossip

People involved in harassment cases can be embarrassed and sensitive about what has happened. And other people who hear about it may get angry, take sides, and want to retaliate. Respect the privacy of those involved, and stop the problem from spreading to others by keeping the matter confidential and not discussing it with your peers.

Instead, discuss it only with those who can help you and others who are directly involved: report the incident(s) to a manager, People and Culture representative, or the chair of the Joint Harassment Committee as described above, get advice from the Joint Harassment Committee, get support from your shop steward if you are a member of the CEU, or contact EFAP for support and counselling.

Other options

If the circumstances warrant it, you have the option of filing a complaint of discriminatory harassment with the B.C. Human Rights Tribunal. Potentially criminal conduct can be reported to the police.

Other Applicable Policies, References, or Supporting Documents

- Collective Agreement: Article 5.04 Personal Harassment Policy
Article 5.05 Discrimination
- Letter of Understanding B9 - Harassment Committee Terms of Reference

Effective Date

The policy came into effect on February 26, 2015, following approval by the WorkSafeBC Senior Executive Committee and the CEU Executive.

It is to be reviewed on an annual basis as required under the *Worker's Compensation Act*.

Administration

This policy is administered by Labour Relations.

Process

Situation

