

SCHOOL DISTRICT No. 69 (QUALICUM)

ADMINISTRATIVE PROCEDURES

WORKPLACE BULLYING AND HARASSMENT (INCLUDING SEXUAL HARASSMENT)

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Statement of Commitment

The inherent right of all individuals to be treated with dignity and respect is central to the beliefs of School District No. 69 (Qualicum). School District No. 69 (Qualicum) recognizes the right of all employees to work, to conduct business and otherwise associate free from bullying and harassment (including sexual harassment). The District has an obligation under WorkSafeBC's Occupational Health and Safety (OHS) policies under Sections 115, 116, and 117 of the *Workers Compensation Act*, to prevent and address workplace bullying and harassment (including sexual harassment).

In making this commitment, the District recognizes the rich diversity of our social fabric and the benefits which diversity brings to all members of our community. The District is committed to encouraging the tolerance of and valuing of differences. The District considers bullying and harassment in any form (including sexual harassment) to be totally unacceptable and will not tolerate its occurrence.

Who Is Covered

All persons working for the District or carrying out District business on a temporary, part time or full time basis are covered by these procedures. (A 'person' could be a workplace party such as a supervisor, or co-worker).

Should a harassment incident involve a non-workplace party or student that an employee comes into contact with at the workplace, the Superintendent of Schools or designate, will determine the procedures to follow and the parties will be so notified.

Purpose

To ensure that all persons covered by these procedures are aware of their duties regarding bullying and harassment (including sexual harassment) in the workplace, and to provide clear and precise procedures for the reporting and resolution of incidents and complaints.

Board Policy Linkages

Policy 6190 Workplace Bullying and Harassment (Including Sexual Harassment)

Policy 7000 Safe, Caring and Inclusive School Communities and its Attendant Administrative Procedure

Responsibilities

It is the District's expectation that all persons covered by these procedures, will comply with the District's policies and procedures, and are required to:

- refrain from engaging in bullying and harassment (including sexual harassment) of other employees, supervisors, the employer or persons acting on behalf of the employer
- report occurrences of bullying and harassment (including sexual harassment) observed or experienced in the workplace
- apply and comply with the District's policies and procedures on bullying and harassment (including sexual harassment)

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- participate in training sessions and/or annual reviews (MATA Members also refer to Collective Agreement Article E.2.6.)

WorkSafeBC OHS Definition of Workplace Bullying and Harassment (Including Sexual Harassment)

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

MATA Members also refer to Collective Agreement Article E.2.2.

Bullying and Harassment (Including Sexual Harassment) may include, but is not limited to:

- Verbal aggression or insults; calling someone derogatory names
- Vandalizing personal belongings
- Sabotaging someone's work
- Spreading malicious gossip or rumours
- Engaging in harmful or offensive initiation practices or hazing
- Physical or verbal threats (this could also constitute "violence" or "improper activity or behaviour" under the Regulation)
- Making personal attacks, based on someone's private life and/or personal traits
- Making aggressive or threatening gestures
- Any comment, look, suggestion, physical contact, or real or implied action of a sexual nature which creates an uncomfortable working environment for the recipient
- Any circulation or display of visual material of a sexual nature that has the effect of creating an uncomfortable working environment
- An implied promise of reward for complying with a request of a sexual nature
- Misuse of power or authority as intimidation, threats, coercion and blackmail
- Reprisal or a threat of reprisal made by a person in authority after a sexual advance is rejected
- Cyber-bullying – the sending of derogatory or threatening messages to either the Complainant or others about the Complainant through email, text messaging, social networking, and websites or sharing personal and confidential messages or images

Repetition is not always a necessary element in harassment; however, the more innocuous the behaviour, the less likely a reasonable person would consider the behaviour harassment if it only happened a few times. Serious allegations, however, even if the action only occurred once, can be considered harassment.

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Bullying and Harassment (Including Sexual Harassment) is not:

- Expressing differences of opinion
- Offering constructive feedback, guidance, or advice about work-related behaviour and performance
- Making a legitimate complaint about someone's conduct through established procedures

Workplace Defined

For the purpose of these procedures, the workplace includes locations where activities related to the business of the District take place. These include:

- Activities within offices, staff rooms, classrooms, lunch rooms and other District property
- Events associated with and including extra-curricular activities
- Situations outside of District operated premises e.g., field trips, work-related conferences, training sessions, travel, community events or social gatherings
- Activities in other locations where workplace bullying and harassment (including sexual harassment) may have a subsequent impact on the work relationship, performance or environment

Human Rights Code/Criminal Code/Grievance Procedure Reference

Filing a complaint under these procedures is not intended to preclude rights under the Collective Agreement, BC Human Rights Code, Criminal Code of Canada or other avenues of redress open under the law.

The complaint and investigation procedures should not be invoked or pursued at the same time as a parallel complaint before the BC Human Rights Tribunal or if a grievance remains outstanding. While such proceedings are taking place, the procedures outlined here will be suspended and may be superseded, where appropriate.

Reporting Time Frame

Any complaint must be filed within a reasonable time following the occurrence of the triggering incident. The Board adopts a six (6) month time frame and may, in its discretion, decide not to deal with the complaint when the facts upon which the complaint is based occurred more than six (6) months before the complaint was filed.

However, where a reasonable circumstance exists for failing to bring the complaint forward within six (6) months and the delay would not result in any prejudice to the Respondent, a complaint may be accepted beyond the six (6) month limit.

Complaint Withdrawal

The Complainant may choose to withdraw the complaint at any stage. However, the District may be obliged under these procedures, to continue the inquiry into the complaint and to take whatever remedial action it deems appropriate, or refer the matter to another process or procedure.

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Responsibilities for Reporting Bullying and Harassment (Including Sexual Harassment)

All persons covered under these procedures have the responsibility for and are expected to promote a working and learning environment that is free from bullying and harassment (including sexual harassment), and to assist anyone who believes that they are being or may have been bullied or harassed. Anyone who believes that a colleague or another person covered under these procedures is being or may have been bullied or harassed, is encouraged to notify their Supervisor, Director of Human Resources or Superintendent of Schools or designate, or their Union Representative.

The Complainant has the right to decide how to respond to bullying or harassment (including sexual harassment) including informal, verbal or written communication with the Respondent, or through the filing of a complaint under these procedures. The Complainant may wish to seek guidance or counselling from his or her Supervisor, Director of Human Resources, Superintendent of Schools or designate or Union Representative to discuss the situation and how it might be resolved. Since advice only is being sought at this stage, names need not be disclosed.

Employment Consequence of Engaging in Harassment (Including Sexual Harassment)

Employees who engage, directly or indirectly, in bullying or harassment (including sexual harassment) may be disciplined up to and including dismissal.

Confidentiality

All records of the complaint filed at Step 2, including contents of meetings, interviews, results of inquiries and other relevant material will be kept confidential, except where disclosure is required by a disciplinary or other remedial process or required by operation of law or as a consequence of contemplated or actual litigation. Records will be stored in a secure file in the Human Resources Department.

The Complainant and the Respondent and any witnesses interviewed in an investigation are to maintain strict confidentiality about the complaint.

Counselling

The District's Employee Family Assistance Program (E.F.A.P.) is available to all employees and their immediate families and offers counselling and resource assistance on a voluntary and confidential basis.

No Reprisals

For the purposes of these procedures, "reprisal" against an individual will be treated as harassment (including sexual harassment) when such actions occur for:

- a) invoking these procedures (whether on behalf of oneself or another individual);
- b) participating or co-operating in any inquiry under these procedures; or
- c) associating with a person who has invoked these procedures or participated in these procedures.

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BULLYING OR HARASSMENT (INCLUDING SEXUAL HARASSMENT) COMPLAINT PROCEDURE STEPS:

These procedures contain three (3) steps, which are outlined below. In most instances, the complaint will be advanced through the Steps outlined below. It is noted that some exceptions to this may apply, and Step 1 may be bypassed and the complaint initiated at Step 2.

All parties involved in a complaint agree to deal with the complaint expeditiously however timelines set out in this procedure may be subject to variation by a Representative of the District, after consultation with the parties and their Union Representative, if applicable.

MATA Members also refer to Collective Agreement Article E.2.3.

Step 1 - Speak Up

- a) The Complainant (person who considers that he/she has been subjected to bullying or harassment [including sexual harassment]) is advised to record the details surrounding the incident(s) including times, dates, places, people involved, names of witnesses, if any, what was said or done, and circumstances surrounding the incident(s).
- b) The Complainant is encouraged to bring the matter to the attention of the Respondent (person responsible for the comment or conduct) calmly, but firmly, making a direct and clear objection indicating that the comment or conduct is not acceptable, is unwelcome, will not be tolerated and must stop. This is often an effective way to resolve the issue and end the bullying or harassment (including sexual harassment). The Complainant may choose to do this alone or accompanied by a representative of their choice (i.e. Supervisor, Director of Human Resources, Superintendent of Schools or designate or Union representative). It is important the Complainant document any communication he or she has with the Respondent. It is also important that the Respondent document any communication regarding a bullying or harassment (including sexual harassment) complaint.
- c) Before proceeding to Step 2, the Complainant may choose to either correspond with or approach his/her Supervisor, Director of Human Resources, Union Representative, or Superintendent of Schools or designate to report his/her complaint and to discuss potential means of resolving the complaint and to request assistance in resolving the matter. A resolution may be attempted using the Informal Resolution Outcomes outlined below. If the matter is resolved to the Complainant's satisfaction, the matter is deemed to be resolved.

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Informal Resolution Outcomes

- a) All discussions shall be solely an attempt to mediate the complaint;
- b) Any and all discussions shall be completely off the record and will not form part of any record;
- c) Only the Complainant, Respondent, and Supervisor (Principal in the case where the Complainant and Respondent are both BCTF members) shall be present at such meetings;
- d) No discipline of any kind would be imposed on the Respondent; and
- e) Where the Complainant and Respondent are both BCTF members, the BCTF and its locals, based on the foregoing, will not invoke the notice of investigation and other discipline provisions of the collective agreement at meetings.

Should a resolution be reached between the Complainant and Respondent at Step 1 under the Informal Resolution Outcomes, it shall be written up and signed by both parties. Only the Complainant and the Respondent shall have copies of the resolution and they shall be used only for the purpose of establishing that a resolution was reached. No other copies of the resolution shall be made.

In the circumstances where a Respondent has acknowledged responsibility, the Supervisor may advise a Respondent of the expectations of behaviour in a neutral, circumspect memo. Such memo will be non-disciplinary in nature and shall not form part of any record. Only the Respondent shall retain a copy of the memo. That the memo was sent can be referred to as proof that the Respondent had been advised about the standard of conduct.

Step 2

The Complainant may find it necessary to deal with the complaint at Step 2:

- if the Complainant does not feel comfortable talking to the Respondent;
- if the Complainant is not satisfied with the result of the initial contact with the Respondent;
- or
- if the bullying or harassment (including sexual harassment) continues.

- a) To initiate the Step 2 process, the Complainant is required to complete the **Workplace Bullying or Harassment (Including Sexual Harassment) Complaint Form** attached to these procedures which details the particulars of the allegations, and submit it along with any other supporting documentation, to the Superintendent of Schools or designate. The complaint should include specific incident(s) which form the basis of the complaint and the definitions of bullying or harassment (including sexual harassment) which may apply; however, the form of the complaint will in no way restrict a mediation or investigation or its conclusions.

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- b) The Superintendent of Schools or designate will review the particulars of the complaint (further particulars may be requested from the Complainant). Upon the conclusion of such a review, the Superintendent of Schools or designate shall:
- i) initiate an investigation of the complaint and appoint an investigator; or
 - ii) recommend mediation or other alternative disputes resolution processes to resolve the complaint.

Should the complainant not agree with the process recommended by the Employer, an investigation will be initiated.

- c) The Respondent cited in a complaint shall be provided with notice of the mediation or investigation, in writing and shall be provided with a copy of the **Workplace Bullying or Harassment (Including Sexual Harassment) Complaint Form** filed by the Complainant within three (3) working days of the submission. The Superintendent of Schools or designate is responsible for ensuring that the Respondent receives a copy of the written complaint.
- d) The Superintendent of Schools or designate will inform both the Complainant and the Respondent in writing, with a copy to the Union (if applicable), of the following:
- that they have the right to representation during any discussions or meetings held during the process, and
 - notice of mediation or investigation.
- e) In the event the Superintendent of Schools is involved either as the Complainant or Respondent, the complaint shall, at the Complainant's discretion, be immediately referred to either BCPSEA or a third party who shall have been named by prior agreement of the District and the Union, who shall proceed to investigate the complaint in accordance with Step 3 of these procedures and report to the Board.

Step 3 – Investigation Process:

- a) A representative of the District will investigate the complaint of bullying or harassment (including sexual harassment).
**The Superintendent of Schools may appoint an independent investigator.*
- b) The investigator will collect evidence by interviewing the Complainant and Respondent (separately), interviewing any witnesses, and otherwise investigating all aspects of the matter which are relevant in determining whether the allegations of bullying or harassment (including sexual harassment) are substantiated.
- c) The investigation shall be conducted by a person who shall have training and/or experience in investigating complaints of bullying and harassment (including sexual

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- harassment). The Complainant may request that the investigator shall be of the same gender as the Complainant and where practicable the request will not be denied.
- d) The Investigator must keep confidential and comprehensive notes of all meetings.
 - e) The investigation shall be conducted as soon as is reasonably possible and shall be completed in twenty (20) working days unless otherwise agreed to by the parties. Such agreement will not be unreasonably withheld.
 - f) Both the Complainant and the Respondent have the right to representation during any discussions or meetings held during the process and shall be advised of this right by the investigator.
 - g) Notwithstanding either party's refusal to co-operate in an investigation, the District may deem it necessary to follow the complaint procedure through to completion.
 - h) The Employer will advise the Complainant and the Respondent, in writing, of the results of the investigation and any actions that may be taken in the matter. The specific details of any disciplinary action will only be provided to the employee who is to be disciplined and his/her Union, if applicable.

Outcomes

Depending on the outcome of the investigation, a decision regarding rehabilitative or disciplinary action for the Respondent and/or the Complainant may include, but is not limited to:

- Counselling
- Education on Bullying and Harassment (e.g. training or awareness sessions)
- Formal written apology
- Change of work assignment of the Complainant and/or Respondent
- Verbal warning
- Written warning
- Suspension or dismissal

Note: If disciplinary action is required, a copy of any disciplinary correspondence will be placed in the employee's personnel file.

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CHECKLIST

All persons working for the Board or carrying out Board business on a temporary, part time or full time basis are covered by these procedures. A 'person' could be a workplace party such as a supervisor, or co-worker. Should a bullying or harassment incident involve a non-workplace party or student that an employee comes into contact with at the workplace, the Superintendent of Schools or designate will determine the procedures to follow and the parties will be so notified.

Complaints from an individual or group should be reported within a reasonable time following the occurrence of the triggering incident. The Board adopts a six (6) month time frame and may, in its discretion, decide not to deal with the complaint when the facts upon which the complaint is based occurred more than six (6) months before the complaint was filed. However, where a reasonable circumstance exists for failing to bring the complaint forward within six (6) months, and the delay would not result in any prejudice to the Respondent, a complaint may be accepted beyond the six (6) month time limit.

IN SOME CIRCUMSTANCES STEP 1 MAY BE BYPASSED AND THE COMPLAINT PROCEDURE MAY BE STARTED AT STEP 2.

STEP 1 – SPEAK UP (THE MAJORITY OF CASES ARE RESOLVED AT THIS STEP)

- Complainant is advised to record the details surrounding the incident (times, dates, places, names of people involved, witnesses, circumstances, etc.)
- Complainant is encouraged to advise the Respondent in person or in writing that he/she considers the conduct in question to be offensive and request the Respondent to stop. This may be done in the presence of a resource person.
- Both the Complainant and the Respondent are advised to document the details of the meeting.
- Complainant may wish assistance to resolve the complaint using the Informal Resolution Outcomes outlined below. If the matter is resolved to the Complainant's satisfaction, the matter is deemed to be resolved.

INFORMAL RESOLUTION OUTCOMES

- All discussions shall be solely an attempt to mediate the complaint.
- Any and all discussions shall be completely off the record and will not form part of any record.
- Only the Complainant, Respondent, and Supervisor (Principal in the case where both parties are BCTF members) shall be present at such meetings.
- No discipline will be imposed on the Respondent.

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- Should a resolution be reached between the Complainant and Respondent, it shall be written up and signed by both parties. Only the Complainant and the Respondent shall have copies of the resolution. No other copies of the resolution shall be made.
- Where a Respondent has acknowledged responsibility, the Supervisor may advise a Respondent of the expectations of behaviour in a neutral, circumspect memo. Such memo will be non-disciplinary in nature and shall not form part of any record. Only the Respondent shall retain a copy of the memo. That the memo was sent can be referred to as proof that the Respondent had been advised about the standard of conduct.
- If the Respondent fails to stop, or if the Complainant does not feel comfortable in confronting the Respondent in the first place, or if the Complainant is not satisfied with the initial contact, then move to STEP 2.

STEP 2

- Complainant completes the Workplace Bullying or Harassment (Including Sexual Harassment) Complaint Form and submits form along with any supporting documentation to the Superintendent of Schools or designate. The complaint should include specific incident(s) and the definitions of bullying or harassment (including sexual harassment) which may apply.
- The Superintendent of Schools or designate will review the particulars of the complaint (further particulars may be requested). Upon conclusion of the review, the Superintendent of Schools or designate shall initiate an investigation and appoint an investigator or recommend mediation or other alternative disputes resolution processes to resolve the complaint. Should the complainant not agree with the process recommended, an investigation will be initiated.
- Superintendent of Schools or designate ensures that the Respondent receives notice of the mediation or investigation and a copy of the complaint, in writing.
- Superintendent of Schools or designate ensures that the Complainant, Respondent and Union (if applicable) are informed, in writing, that a representative may accompany them to any meetings and provides them with notice of mediation or investigation.

(If the Respondent is the Superintendent of Schools or designate, the Complainant is to contact either BCPSEA or a third party who shall have been named by prior agreement of the District and the Union, who shall proceed to investigate the complaint in accordance with Step 3 and report to the Board).

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STEP 3 – INVESTIGATION PROCESS

- A Representative of the District will commence an investigation of the complaint as soon as is reasonably possible following the receipt of a written request for a Step 3 investigation. [The Complainant may request that the investigator be of the same gender as him or her and where practicable the request will not be denied.]
**The Superintendent of Schools may appoint an independent investigator.*
- The investigator will collect evidence by interviewing the Complainant, Respondent and any witnesses (separately).
- The investigator will inform both the Complainant and Respondent of their right to representation during any discussions or meetings held.
- The investigator will keep confidential and comprehensive notes of all meetings.
- The investigation will be completed in twenty (20) working days unless otherwise agreed to by the parties and their Union Representative, if applicable.

THE INVESTIGATOR WILL INVESTIGATE FULLY. THE INVESTIGATION SHALL BE COMPLETED AS EXPEDITIOUSLY AS POSSIBLE.

Following the investigation:

- The Complainant and the Respondent will be advised by the Employer of the conclusion of the Step 3 investigation.
- The results of the investigation will be shared, in writing, with the Complainant, Respondent and Union, if applicable. The specific details of any disciplinary action will only be provided to the employee who is disciplined and their Union, if applicable.

OUTCOMES

Depending on the outcome of the Step 3 investigation, a decision regarding rehabilitative or disciplinary action for the Respondent and/or the Complainant may include, but is not limited to:

- Counselling
- Education on Bullying and Harassment (e.g. training or awareness sessions)
- Formal written apology
- Change of work assignment of the Complainant and/or Respondent
- Verbal warning
- Written warning
- Suspension or dismissal

For more detailed information, refer to pages 1 – 8 of this document.

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COMPLAINT FORM

All persons working for the District or carrying out District business on a temporary, part time or full time basis are covered by these procedures. (A 'person' could be a workplace party such as a supervisor, or co-worker). Should a bullying or harassment incident involve a non-workplace party or student that an employee comes into contact with at the workplace, the Superintendent of Schools or designate will determine the procedures to follow and the parties will be so notified.

PRIVATE AND CONFIDENTIAL

Complainants may seek assistance before completing this form.

This form, along with any documentation supporting this complaint (e.g. emails, handwritten notes, photographs, or physical evidence like vandalized personal belongings), is to be submitted to the Superintendent of Schools or designate. (If the Respondent is the Superintendent of Schools or designate, submit this form and supporting documentation to either BCPSEA or a third party who shall have been named by prior agreement of the District and the Union.

Name of Complainant:

School/Department/Work Site:

Description of Alleged Bullying or Harassment (Including Sexual Harassment) – attach further information if required (e.g. behaviour and/or words used):

Name(s) of Person(s) Accused of Bullying or Harassment (Including Sexual Harassment):

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Date(s) of Incident(s) or Time Frame and Location of Incident(s):

Name(s) of any Witnesses to the Incident(s) of Bullying or Harassment (Including Sexual Harassment):

What steps have been taken to date to resolve the complaint?

Resolution Requested:

Complainant(s) Signature(s):

Date: _____
Date: _____

Superintendent or Designate's Signature (indicating receipt):

Date of Receipt: _____

The information contained in this form is of a highly confidential nature and will be protected as outlined in the District's procedures to address workplace bullying and harassment (including sexual harassment) incidents and complaints.

INSTRUCTIONS FOR HANDLING THIS FORM

Place this form in a sealed envelope marked "PRIVATE AND CONFIDENTIAL" and forward as outlined above for a Step 3 investigation.