



## SD10 (Arrow Lakes) District Protocol

### Discrimination, Bullying and Harassment in the Workplace Protocol

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#### Overview:

The District recognizes the right of all staff members to learn and work in a safe, respectful, and inclusive environment free from discrimination, bullying and harassment. The District, along with all staff members, students, and persons from the communities, have a responsibility to promote, monitor, and maintain a safe, respectful and inclusive working environment that is free from harassment, bullying and discrimination. This protocol applies to all employees of the district and has been developed to provide clarity and to ensure consistent procedures. Bargaining unit employees should also consult their collective agreement procedures.

#### Definitions

##### **Bullying and 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 that 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.
- examples of conduct or comments that might constitute bullying, harassment and discrimination include verbal aggression or insults, calling someone derogatory names, harmful hazing or initiation practices, vandalizing personal belongings, and spreading malicious rumours. This also includes conduct through electronic communication.

**Discrimination:** Discrimination in employment is defined by the B.C. Human Rights Code and is discrimination based on race, colour, ancestry, place of origin, religion, marital or family status, physical or mental disability, sex, sexual orientation, age (19 years and over), political belief, or a criminal conviction that is unrelated to the employment.

**Complainant:** A worker who believes he or she has been subjected to or observed Discrimination or Bullying and Harassment in the workplace.

**Person:** A person includes anyone a worker comes into contact within the workplace.

**Respondent:** A person in the workplace against whom a complaint of Discrimination and/or Bullying and Harassment has been made.

**Confidentiality:** Information about a complaint will be shared only with those who need to know in order facilitate the investigation process. The respondent(s) will be provided with a copy of the complaint and both parties will be provided with a copy of the findings at the end

of the investigation. All participants in the investigation process are to keep the information in the process confidential and not disclose it to anyone other than their union representatives.

**Mediation:** Involves an unbiased third party acting as facilitator in direct communication between parties who voluntarily agree to this process. It is an opportunity to resolve disputes in a mutually respectful manner at the Early/Ste based resolution phase of a complaint.

**Standard of Proof:** The standard of proof to be applied as to whether the reported event(s) occurred is the balance of probabilities. This means that on the evidence provided, the occurrence of the event was more likely than not. The standard used to determine what is reasonable in the policy is the *Black's Law Dictionary, Ninth Edition* definition of a reasonable person which is as follows:

*"...a person who exercises the degree of attention, knowledge, intelligence, and judgment that society requires of its members for the protection of their own and of others' interests. The reasonable person acts sensibly, does things without serious delay, and takes proper but not excessive precautions..."*

## **Reporting Discrimination, Bullying and Harassment**

### **Informal Resolution Process**

1. A worker who believes they have experienced, or has observed, Discrimination or Bullying and Harassment contrary to this protocol is encouraged to bring the matter directly to the attention of the person who is responsible for the conduct.
2. The worker should inform the other person that the conduct is unwelcome and request that it cease. The worker may wish to document the unwelcome conduct and any informal resolution for future reference but is not required to do so.
3. If the worker does not feel comfortable approaching the other person on their own, the worker may seek the assistance of their Principal/Supervisor or Staff Representative/Shop Steward in approaching the other person to resolve the matter informally.
4. If the conduct in question does not cease or if the worker does not wish to use the informal resolution process, the worker must file a formal complaint or witness report following the procedures below.

### **Formal Complaint/Witness Report**

5. A formal complaint or witness report of Discrimination or Bullying and Harassment should be made in writing and should include:
  - a. a detailed description of the alleged Discrimination or Bullying and Harassment including dates, times, locations, exact comments, actions, behaviour, and any relevant documents;
  - b. the name of the Respondent; and
  - c. the names of any witnesses.
6. Formal complaints or witness reports should be made as soon as possible after experiencing or witnessing an incident to allow the incident to be investigated and addressed promptly.
7. A worker making a formal complaint or witness report of Discrimination or Bullying and Harassment can present the complaint or report to their Principal/Supervisor. The Principal/Supervisor is responsible for forwarding the formal complaint or witness report to the Superintendent or designated School District Human Resources contact for investigation. If the worker feels it is inappropriate to present the complaint or report to their Principal/Supervisor (e.g. if the Principal/Supervisor is the Respondent) the worker can present

the complaint or witness report directly to the Superintendent or designated School District Human Resources contact.

8. Upon receipt of a complaint or report alleging Discrimination or Bullying and Harassment, the Superintendent or designated School District Human Resources contact will initiate an investigation.

### **Investigation Procedures**

9. If the subject matter of a complaint or report fits within the definitions of Discrimination or Bullying and Harassment, it will be investigated. The investigation will be undertaken promptly and approached in an unbiased manner.
10. Investigations will be conducted by the Superintendent or designated School District Human Resources contact or by an external investigator appointed by the Superintendent or the designated School District Human Resources.
11. Both the Complainant and the Respondent are entitled to a fair hearing and representation. The investigator will interview the Complainant, the Respondent, and any other witnesses the investigator believes may have information relevant to the complaint or report. The investigator will review any documents he/she considers relevant. The Respondent will be given the details of the complaint and will be provided with a reasonable opportunity to respond.
12. All investigation proceedings will be documented and upon completion of the investigation, the assigned investigator will file a report of findings with recommendations for remedial actions.
13. The results of the investigation including findings and recommendations will be reported to the Superintendent or designated School District Human Resources contact, who will retain the investigation report in a manner that maintains the confidentiality of the report.

### **Remediation**

14. The Superintendent or designated School District Human Resources contact is responsible for deciding what remedial actions, if any, are appropriate and for implementing such remedial actions, except in those cases where the remedial action may involve discipline, dismissal or other action for which the Board is responsible under the terms of a collective agreement or contract of employment.
15. The Superintendent or designated School District Human Resources contact (or the Board, if applicable), will follow-up as appropriate with the Complainant and Respondent regarding the outcome of the investigation.
16. Remedial actions may include but are not limited to:
  - a. education and training;
  - b. review and modification of policies, procedures and practices;
  - c. disciplinary action up to and including dismissal;
  - d. continuous monitoring and follow-up; or
  - e. any other strategy designed to eliminate and/or prevent Discrimination or Bullying and Harassment in the workplace.
17. In appropriate circumstances employees may be referred to the Employee and Family Assistance Program (EFAP) or Joint Early Intervention Service (JEIS) or be encouraged to seek medical advice.
18. The investigation and implementation of the remedial actions will be carried out and concluded as expeditiously as possible.

### **Confidentiality**

19. Complaints of Bullying and Harassment and/or Discrimination involve confidential and sensitive matters. All workers involved in a Bullying and Harassment and/or Discrimination complaint must maintain the confidentiality of any information they receive during the complaint process.
20. Subject to disclosure which is required by law or is necessary to investigate or resolve a complaint, the School District will make every effort to keep confidential information pertaining to the complaint.

**Retaliation**

21. Retaliation against any individual who, in good faith, files a complaint or report of Bullying and Harassment and/or Discrimination is unacceptable, and may result in discipline, up to and including dismissal.

**Frivolous Complaints**

22. Complaints or reports of Bullying and Harassment and/or Discrimination are serious matters. A worker who is found to have made a frivolous, vexatious or malicious complaint of Bullying and Harassment and/or Discrimination may be subject to discipline, up to and including dismissal.

**Annual Review**

23. This policy and procedure will be reviewed every year. All workers will have access to an electronic copy of the policy and procedures.

**Important References, Resources and Related Documents**

- S-17 Protocol – Bullying and Harassment Complaint Form
- [Board Policy 532 – Respectful Workplace](#)
- [BC Human Rights Code](#)
- [WorkSafe BC Bullying and Harassment](#)

Date Created: _____	Review Date: _____
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