

SUBJECT: Respectful Workplace	POLICY NO: INT-11	LAST REVIEWED: February 2018
APPROVED BY: Executive Board	MANAGED BY: Human Resources Manager	NEXT REVIEW: February 2020

SUMMARY

Policy Statement

BCITSA is committed to sustaining a positive work environment in which employees work together constructively. From time to time, individuals may feel uncomfortable with a situation or another individual, which may negatively impact their work environment as well as others’. This Policy has been established as a foundation for ensuring that all individuals have a mechanism in place to ensure their freedom from harassment, discrimination, and conflict.

Purpose of This Policy

The purpose of this Policy is to:

- Maintain a working environment that is free from harassment and/or discrimination.
- Educate all employees that workplace harassment and/or discrimination constitute offenses under law.
- Set out the types of behaviour that may be considered offensive.
- Establish a mechanism for receiving complaints of workplace harassment and discrimination and to provide a procedure by which the Association will deal with these complaints.
- Establish the steps BCITSA will take to maintain a working environment where employees treat each other with mutual respect.

Application of This Policy

This Policy applies to all full-time and part-time employees, contracted positions, Executives, and Councillors.

This Policy is in addition to, and not in substitution for rights an individual may have under existing legislation, such as the *BC Human Rights Code*.

Related Documents and Legislation

Legislation

- *BC Human Rights Code*

- *BC Employment Standards Act*

BCITSA

- INT-12 – Conflict Resolution

Forms Associated With This Policy

N/A

Amendment History

- Created 2018-02-26
- Amended [DATE]

DEFINITIONS

Advisor

An Advisor is defined as an individual whose responsibility is to carry out fair process, and to ensure that all complaints are handled following strict adherence to the procedures as set forth by this Policy.

Harassment

Harassment is defined as any unwelcome remark, behaviour, or communication based on race, colour, ancestry, place of origin, political belief, religion, marital status, family status, sexual orientation, physical or mental disability, gender, gender identity, age, or criminal or summary conviction which causes offense or humiliation to any person, and had a negative impact on the workplace, where:

- Submission to such conduct becomes explicitly or implicitly a term or condition of employment or progress;
- Submission to, or rejection of, such conduct is used as a basis for employment decisions;
- Such conduct has the purpose or effect of interfering with work performance; or
- Such conduct creates an intimidating, hostile, or offensive working environment.

Personal Harassment

Personal Harassment is defined as any unwelcome remark, behaviour, or communication directed towards an individual or group of individuals that misuses authority or abuses the power one individual or a group of individuals has over an individual or group of individuals.

Power

For the purposes of this Policy, the term “power” is intended to mean more than the power that is vested in a position by BCITSA.

Power in this context includes any type of power that one individual may have over another individual. Misuse or abuse of power occurs when an action has the effect or purpose of abusing, threatening, demeaning, or intimidating the individual or group of individuals, and where:

- Submission to such conduct becomes explicitly or implicitly a term or condition of employment or progress;
- Submission to, or rejection of, such conduct is used as a basis for employment decisions;
- Such conduct has the purpose or effect of interfering with work performance; or
- Such conduct creates an intimidating, hostile, or offensive working environment.

Sexual Harassment

Sexual Harassment is defined as any unwelcome sexually-oriented conduct and may be verbal, written/typed, physical, or by innuendo, where:

- Submission to such conduct becomes explicitly or implicitly a term or condition of employment or progress;
- Submission to, or rejection of, such conduct is used as a basis for employment decisions;
- Such conduct has the purpose or effect of interfering with work performance; or
- Such conduct creates an intimidating, hostile, or offensive working environment.

DUTIES AND RESPONSIBILITIES

Human Resources Manager

The Human Resources Manager is responsible for the interpretation and enforcement of this Policy. The Human Resources Manager shall also carry out the duties of an Advisor as per this Policy.

Advocate

Advocates carry out the duties of an Advisor as per this Policy.

POLICY

1. Employees

1.1. Employee Relations

- a. Employees have the right to equitable treatment and the right to freedom from harassment and discrimination in the workplace.
- b. Employees are encouraged to resolve issues as they arise in order to foster positive working relationships.

2. Advisors

2.1. Appointment of Advisors

- a. The Human Resources Manager and the Advocate shall carry out the duties and responsibilities of Advisors as per this Policy. Advisors shall report directly to the Executive Director.

3. Complaints

3.1. Confidentiality

- a. BCITSA recognizes the difficulty in coming forward with a complaint of workplace harassment and/or discrimination, and further recognizes a complainant's interest in keeping the matter confidential.
- b. Confidentiality shall be maintained throughout any complaint as outlined in this Policy and related procedures.

- c. Information relating to a complaint shall only be disclosed to the extent necessary to carry out the relevant policies and procedures.
- d. All records of complaints, including contents of meetings, interviews, results of investigations, and other relevant material shall only be disclosed to the extent necessary to carry out the relevant policies and procedures.

3.2. Time Limit

- a. A complaint must be filed within three months of the last incident of harassment and/or discrimination in order to be considered under this Policy.
 - i. The Executive Director shall have the discretion to waive this requirement where there are extenuating circumstances that prevented the complaint from being brought forward in the specified time frame.

3.3. Principles of Natural Justice

- a. The principles of natural justice and fairness shall be adhered to by anyone who becomes involved in any aspect of the process set out to deal with harassment and/or discrimination.
- b. All parties to the harassment and/or discrimination complaint, including the complainant, respondent, and witnesses, shall be given the opportunity to fully explain what happened from their perspective, to have their explanations and concerns fully considered, and to challenge any evidence that is being or has been considered.

3.4. Retaliation

- a. Retaliation against any individual who has filed a complaint, been named as a respondent or witness in the complaint, or who investigates the complaint in accordance with this Policy may result in disciplinary action.

3.5. Vexatious Complaints

- a. Frivolous, vexatious, or otherwise unreasonable complaints may be subject to disciplinary action.

- b. Frivolous or vexatious complaints may be considered grounds for a complaint of harassment.

3.6. Harassment and Discrimination by Outsiders

- a. In the event that an employee believes that they have been subjected to workplace harassment and/or discrimination by a person who is not subject to this policy, they shall seek the advice of an Advisor.
- b. The Advisor shall take whatever action is necessary and appropriate to ensure that the Association fulfills its responsibility to investigate and assist the individual subjected to harassment.

3.7. Report by Colleague

- a. If an employee believes that a colleague has experienced or is experiencing workplace harassment and/or discrimination, they shall be expected to communicate the incident to an Advisor. This communication may be conducted anonymously and shall be considered as legitimate as if it were not conducted anonymously.
- b. The Advisor may meet with the person who is said to have been subjected to workplace harassment and/or discrimination and shall proceed in accordance with this Policy.

4. Respondents to Complaints

4.1. Notice to Respondent

- a. The Advisor shall provide the respondent or respondents of a complaint with a copy of the complaint, a copy of this Policy and any other Policies that are considered by the Advisor to be relevant to the complaint.

4.2. Rights of Respondent

- a. Respondents to a complaint shall have the right to be represented by any individual of choice throughout any portion of a complaint procedure where the respondent is required or allowed to be present.

PROCEDURE

1. Procedure to Process a Complaint

1.1. Initial Action by Complainant

- a.** Employees who have been subjected to any form of harassment and/or discrimination, they (the "Complainant") shall be encouraged to bring the matter to the attention of the person responsible for the conduct.
- b.** If the Complainant does not wish to bring the matter directly to the attention of the person responsible or where such an approach is attempted and does not produce a satisfactory result, the Complainant is encouraged to seek the advice of an Advisor.

1.2. Meeting with the Advisor

- a.** The Advisor shall advise the Complainant of:
 - i.** The right to make a written complaint under this Policy if the respondent is an employee of the Association;
 - ii.** The availability of counselling and other support services provided by the Association;
 - iii.** The right to be represented by any person of choice at any stage of the process when the Complainant is required or entitled to be present;
 - iv.** The right to withdraw from any further action in connection with the complaint at any stage even though the Association may continue to deal with the complaint; and
 - v.** Other procedures, such as a complaint under the British Columbia *Human Rights Code*, or where appropriate, contacting the police or Crown Counsel for a proceeding under the Criminal Code
- b.** Regardless of any decision made concerning further action, the Advisor shall keep a confidential written record of the initial complaint and inform the Executive Director that a complaint has been filed.

1.3. Opportunity for Resolution before Investigation

- a. Where the Complainant decides to make a written complaint, the Advisor may, if the Complainant consents, take action necessary to resolve the complaint informally by way of mediation.
- b. The Advisor shall be the facilitator throughout this process.

1.4. Outcomes to Resolution Meeting - Complainant Satisfied with Resolution

- a. If the Complainant is satisfied with the resolution achieved at the meeting with the respondent, the Advisor shall have the Complainant sign a letter of agreement outlining the Advisor's recommendations concerning the resolution of the complaint.

1.5. Outcomes to Resolution Meeting - Complainant Not Satisfied with Resolution

- a. If the Complainant is not satisfied with the resolution achieved at the meeting with the respondent, the Complainant may file an official written complaint to the Advisor.

2. Outcomes of Meeting with the Advisor

2.1. Complainant and Advisor Agree that the Conduct is Not Workplace Harassment and/or Discrimination

- a. If the Complainant and the Advisor agree that the conduct in question is not workplace harassment and/or discrimination as defined in this Policy, the Advisor may have the Complainant refer to Procedure 1.1 (Conflict Resolution).

2.2. Complainant Decides to Make a Written Complaint

- a. If the Complainant, after meeting with the Advisor, decides to make a written complaint, the Advisor shall:
 - i. Assist the complainant in drafting a written complaint that shall be signed by the Complainant;
 - ii. Give copies of the complaint, within five days, to the respondent and to the Complainant; and
 - iii. Address the written complaint as per this Policy.

2.3. Complainant Decides to Make a Written Complaint When Advisor does not Support Complaint

- a.** If the Complainant decides to make a written complaint, where the Advisor believes that the conduct in question is not workplace harassment and/or discrimination as defined in this Policy, the Advisor will:
 - i.** Assist the Complainant in drafting a written complaint that must be signed by the Complainant; and
 - ii.** Give copies of the complaint, within five days, to the Executive Director.

- b.** The Executive Director shall inform the Advisor and Complainant if the complaint is granted for harassment and/or discrimination.
 - i.** When the Executive Director supports the Advisor’s recommendation, the complaint will be handled as per Procedure 1.1 (Conflict Resolution).
 - ii.** When the Executive Director does not support the Advisor’s recommendation, the complaint shall be handled as per this Policy.

2.4. Complainant Does Not Wish to Make a Written Complaint

- a.** Where a Complainant presents facts to the Advisor that the Advisor believes to constitute sufficient evidence of workplace harassment and/or discrimination, but the Complainant does not wish to make a written complaint, the following steps may be taken even if the Complainant does not wish for the Advisor to take any further action.

- b.** If an employee decides not to pursue a formal complaint, the Advisor may choose to address the issue if deemed of a serious nature to ensure the safety of all employees.
 - i.** The Advisor may meet with the respondent if the Advisor is satisfied that this can be done without disclosing, directly or indirectly, the identity of the Complainant to ensure that the offensive conduct is not repeated.
 - ii.** The Advisor may make a written complaint if there is a safety concern or if there have been previous complaints against the respondent.

2.5. Written Complaint by Advisor

- a. If the Advisor decides that a written complaint should be made without the Complainant's support, the Advisor shall:
 - i. Prepare and sign a written complaint
 - ii. Provide copies of the complaint, within five days, to the respondent and to the Complainant.
 - iii. Forward the complaint to the Executive Director within five days. If the respondent or Complainant is the Executive Director, the complaint will be forwarded to the President.
 - iv. If the Executive Director or President finds merit to the complaint, the Advisor shall handle the written complaint as per this Policy.

3. Investigation

3.1. Investigation

- a. The Executive Director shall appoint an individual or team to investigate every written complaint forwarded to the Executive Director or the President. Where the respondent is the Executive Director, the President shall appoint an individual or team to investigate every written complaint forwarded to the President.
 - i. Advisors shall not undertake such an investigation.

3.2. Complaint is Substantiated

- a. If the investigation results in a finding that the complaint of workplace discrimination and/or harassment is substantiated, the outcome of the investigation and any disciplinary action, up to termination of employment, shall be recorded in the Association's records relating to the respondent. These written records shall be maintained for 10 years unless new circumstances dictate that the file should be kept for a longer period of time.

3.3. Complaint is Not Substantiated

- a. If the investigation results in a finding that the complaint of workplace discrimination and/or harassment is not substantiated, all records of the complaint will be removed from the respondent's records, but kept as records with the human resources department.

3.4. Informing Complainant

- a.** The Complainant shall be informed of the outcome of the investigation and any disciplinary actions given to the respondent.
- b.** If the Complainant is not satisfied with the outcome of the investigation or the disciplinary action, the complainant shall be reminded of their right to file a complaint with the BC Human Rights Tribunal.