CITY OF NANAIMO
THE HARBOUR CITY

ADMINISTRATIVE POLICY

RCRS Secondary:	GOV-02	**Effective Date:**	1994-NOV-01
Policy Number:	ADM-093	**Amendment Date/s:**	1995-SEP-01 2013-MAY-01 2017-JAN-01 2017-MAR-01 2017-APR-01 2017-NOV-01 2018-JAN-01 2019-FEB-01 2023-DEC-07
Title:	Respectful Workplace	**Repeal Date:**	
Department:	Human Resources	**Approved by:**	Dale Lindsay, CAO

PURPOSE:

The City of Nanaimo ("City") is committed to providing a positive work environment that embraces diversity where everyone is treated equitably with courtesy and dignity. The City is further committed to principles of due process and natural justice. Accordingly, the purpose of this policy is to provide direction on what is and what is not a respectful workplace and to outline the procedures for resolving respectful workplace complaints.

DEFINITIONS:

Complainant	Means a person who makes a complaint of disrespectful conduct.
Off-Duty Conduct	Means any conduct by an employee that occurs away from the workplace, including communication on social media sites, and that has one of the following impacts: 1) harms the employer's reputation or product; 2) renders the employee unable to perform his or her duties; 3) leads to a refusal, reluctance or inability of other employees to work with him or her; or 4) inhibits the employer's ability to efficiently manage its work and direct its working forces.
Prohibited Grounds of Discrimination	Means the *BC Human Rights Code* prohibits harassment and other forms of discrimination on the basis of Indigenous identity, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age of that person or because that person has been convicted of a criminal or summary conviction offence that is unrelated to employment.
Respondent	Means a person who is alleged in a complaint to have engaged in disrespectful conduct.
Workplace	Includes City facilities, worksites, offices, vehicles, parks, washrooms, locations visited by employees on City-related business; including conferences, meetings, customer sites, locations of work-based social gatherings and all written, verbal and electronic communication taking place in such venues.

SCOPE:

All employees

POLICY:

The City and those subject to this policy have a shared obligation for creating a respectful, safe and supportive work environment. The goal is to foster a work environment that embraces diversity and where everyone is treated equitably with courtesy and dignity. The City encourages open discussion of job-related issues and a prompt resolution of those issues.

The City will not condone or tolerate disrespectful conduct. This policy defines disrespectful conduct as any conduct or comment that is objectionable or unprofessional, which serves no legitimate work purpose and which has the effect of creating an intimidating, humiliating, hostile or offensive work environment. Disrespectful conduct includes harassment of any kind, workplace violence, and any other unprofessional conduct that is not consistent with a respectful and safe workplace. See Schedule A which defines and provides examples of various types of disrespectful conduct.

This policy applies to conduct at the "workplace" (as defined in this policy) and may also include off-duty conduct, including behavior on social media sites, that has an adverse impact on the workplace.

Allegations of harassment or discrimination may involve disclosure of sensitive information. Confidentiality must be maintained to ensure that those who may have been disrespected feel free to come forward and so that reputations of all parties are protected throughout the process. To protect the interests of the parties involved, every reasonable effort will be made to maintain confidentiality throughout the process. All information gathered, received or compiled through the course of a complaint and investigation must be maintained in confidence by the investigator, complainant, respondent and others that may be privy to this information. The confidentiality of the information is to be maintained except as required to carry out a full and fair investigation, to address the findings from the investigation, to protect the health and safety of any person and/or to comply with applicable laws.

Employees are encouraged to report disrespectful conduct without fear of reprisal. This policy prohibits retaliation or reprisal against anyone who, in good faith, reports a violation of this policy or participates in a complaint investigation process. If any employee is found to have retaliated against another employee in such circumstance, disciplinary action up to and including termination may result.

Employees who engage in disrespectful conduct and employees who knowingly initiate a false allegation or an allegation with intent to harm the respondent or others, may be subject to disciplinary action, up to and including termination.

While the City may not have control over the behavior of external parties (such as members of the public, members of Council, contractors), the City must ensure that disrespectful conduct from external parties is appropriately addressed. Employees should seek assistance from their managers should they observe or experience disrespectful conduct from external parties, as such conduct may still form the basis of a complaint under this policy.

RESPONSIBILITIES:

Employees

- Participate in training and become familiar with this policy.
- Know and comply with their rights and obligations arising from this policy, the *BC Human Rights Code* and the applicable *WorkSafeBC regulations.*
- Ensure personal conduct toward others supports a respectful workplace.
- Attempt to resolve differences with other employees in a respectful way within a reasonable time period.
- Report disrespectful conduct if observed or experienced in the workplace.
- Cooperate in resolution meetings and investigations to resolve complaints.
- Maintain confidentiality related to complaints.

Managers and Supervisors

- Promote awareness and understanding of the Respectful Workplace policy.
- Participate in training and become familiar with this policy.
- Ensure personal conduct supports a respectful workplace; lead by example in treating all employees with dignity and respect.
- Set and enforce standards of appropriate workplace conduct and take action when unprofessional conduct occurs.
- Attempt to resolve differences between employees in a respectful manner within a reasonable time period and raise concerns to Human Resources in a timely manner when becoming aware of disrespectful conduct in the form of harassment or workplace violence.
- Maintain confidentiality related to complaints.

Union Representatives

- Promote awareness and understanding of the Respectful Workplace policy.
- Ensure personal conduct supports a respectful workplace; lead by example in treating others with dignity and respect.
- Collaborate, when required, in interventions and investigations to resolve complaints.
- Maintain confidentiality related to complaints.

Human Resources ("HR") Department

- Ensure employees are provided with training on respectful workplace behaviour.
- Provide assistance with respect to policy interpretation and administration.
- Maintain confidentiality related to complaints.

Individuals Designated to Manage a Formal Complaint (as identified at step 3 of the procedure below)

- Investigate allegations of disrespectful conduct either directly or through the use of an external investigator.
- Maintain confidentiality related to complaints.

PROCESS:

An employee, who believes that he or she has experienced disrespectful conduct, is encouraged to first try to resolve the issue through respectful and open dialogue in an informal process. If it is not possible to resolve the concern through an informal process, then a formal written complaint may be made.

An employee that pursues an informal course of action is not prevented from filing a formal complaint in the future. The City encourages the prompt reporting of all alleged violations of this policy.

Step 1 – Ask to stop

When an employee encounters disrespectful conduct, the employee should make it known to the person engaged in the conduct that the conduct is inappropriate and should cease.

Step 2 – Informal resolution

If the conduct persists or the employee is not comfortable expressing an objection directly, the second step involves the employee promptly reporting the disrespectful conduct to their Supervisor, Manager, Union Representative or HR Representative. Depending on the nature and severity of the alleged conduct and subject to the consent of the employee, the Supervisor, Manager, Union Representative or HR representative may decide to take such action as:

- Meet separately with each person involved in the complaint and review concerns,
- Meet together with all persons to facilitate a conversation to resolve the issue,
- Review policies and reinforce expectations of respectful conduct,
- Seek commitments from persons that they will conduct themselves in a respectful manner,
- Follow-up, where appropriate, with persons after the resolution process to ask whether commitments have been adhered to,
- Terminate the informal resolution process if there is no sufficient basis to proceed.

If resolution cannot be attained by informal resolution, then a formal complaint may be filed.

Step 3 – Submit a formal complaint

A formal complaint may be made by any person exposed to conduct that violates this policy.

To report an incident of workplace violence, refer to the *Violence in the Workplace reporting form* in the Safety Programs section of the City's Occupational Health & Safety manual.

To make a formal complaint regarding any other unresolved disrespectful conduct, follow the procedure below. The City will not permit anonymous complaints against any employee.

Under this policy, the individual(s) designated to manage formal complaints are:

- the Director of Human Resources, or designate, for all complaints except those involving members of the Senior Management Team and employees in the Human Resources department;
- the Chief Administrative Officer, or designate, for all complaints involving members of the Senior Management Team and employees in the Human Resources department; and
- the Mayor or member of Council, or designate, for any complaints made by or against the Chief Administrative Officer.

The complaint must be submitted to those individuals as designated above.

Formal complaints must be filed by completing a *Respectful Workplace Complaint form* found on the City's Intranet. Information required for a written complaint includes:

- Description of the incident(s) that have led to the complaint being filed,
- The date(s) and location(s) where the incident(s) occurred,
- The name(s) of the respondent(s),
- The name(s) of any witnesses,

- The effect the incident(s) have had on the complainants,
- Any attempts made to resolve the complaint under steps one and two and the outcome.

In the event that a complainant does not proceed with a formal complaint, the City may still initiate a formal investigation if deemed necessary.

Step 4 – Investigation

The investigation of a formal complaint will be conducted promptly and will be kept confidential. Any resolutions necessary as an outcome of the investigation will be implemented in a timely manner.

The individual(s) designated to manage the complaint may decide not to proceed with an investigation when a determination is made that:

- this policy does not apply to the complaint;
- the complaint is frivolous, vexatious, trivial or is not made in good faith;
- there is not enough evidence to prove the complaint; or
- the dispute which caused the complaint is resolved.

If an investigation will not be commenced, the complainant will be informed of this decision and the reasons behind it.

If the investigation proceeds, the individual(s) designated to manage the complaint will conduct the investigation personally or may appoint an external investigator to investigate the allegations made. The complainant and the respondent will be notified of the investigation and who will be investigating.

The investigator will conduct a thorough and fair investigation of the complaint. The investigator will interview the complainant (if further information required upon receipt of the complaint) as well as the respondent and any witnesses with relevant information, make findings of fact and determine whether the facts constitute a finding of disrespectful conduct.

The investigator will only investigate allegations related to the original complaint. In the event that new allegations arise during the investigation, the investigator will inform the person who made the new allegation(s) that a separate complaint must be filed.

The investigation will be conducted in a manner that ensures both the complainant and respondent each have a fair opportunity to know what the other party is saying and a fair opportunity to be heard. The respondent will be provided with the written complaint (including the name of complainant) and will be given the opportunity to respond to the allegations during an in person meeting with the investigator, and in writing following the meeting if the respondent requests to do so.

The complainant and respondent may request that witnesses be interviewed. However, the investigator will interview only those in direct relation to the complaint.

Employees have an obligation to participate in the investigative process. Refusing to do so may be grounds for disciplinary action.

The complainant and respondent may request an appropriate representative. Any representative must agree to respect this process and the confidentiality requirement.

At any time during the investigation, the individual(s) designated to manage the complaint may pursue an informal resolution to the complaint, which may include mediation. The investigation may be

suspended for an informal process to occur. If this does not result in a resolution, the investigation will recommence.

Step 5 – Conclusion & Remedy

Upon the conclusion of the investigation, the investigator will provide a summary report setting out the nature of the complaint and the investigation's findings to the individual designated to manage the complaint.

The individual designated to manage the complaint will provide the summary report to the complainant(s) and respondent(s). They may also provide the summary report to the appropriate City personnel responsible for determining the remedial action to be taken.

Where a complaint is substantiated, an appropriate remedy will be assessed on a case by case basis. This may include corrective action such as education, training, temporary or permanent changes to reporting structures or work assignments and discipline up to and including termination of employment.

If the investigation determines that the complainant initiated a false allegation or an allegation with intent to harm the respondent or others, disciplinary action may result up to and including termination of employment.

Exempt employees may appeal any disciplinary action to the Chief Administrative Officer. Union employees may follow the procedures as prescribed in the applicable Collective Agreement.

RELATED DOCUMENTS:

- Human Rights Code
- WorkSafeBC Regulations
- Occupational Health & Safety Program Manual – Violence in the Workplace procedure
- CUPE Collective Agreement, Article 26
- Respectful Workplace Complaint Form

REPEAL or AMENDMENT:

- December 2023: Updated prohibited grounds and housekeeping changes re: process
- February 2019: Updated Prohibited Grounds section
- January 2018: Revised inclusion of external parties' conduct
- November 2017: Revised
- April 2017: Updated CAO job title; revised individuals designated to manage complaints
- March 2017: Revised individuals designated to manage complaints
- January 2017: Revised individuals designated to manage complaints
- May 2013: Revised and renamed
- September 1995: Revised
- November 1994: New document

SCHEDULE A

Types of Disrespectful Conduct

Disrespectful Conduct: Conduct or comment that is objectionable or unprofessional which serves no legitimate work purpose and has the effect of creating an intimidating, humiliating, hostile or offensive work environment. Disrespectful conduct includes harassment of any kind, workplace violence and any other unprofessional conduct that is not consistent with a respectful and safe workplace. Types of disrespectful conduct include:

A. Harassment: Any inappropriate conduct, comment, display, action, or gesture by a person directed at another person or persons that has the effect of creating an intimidating, humiliating or offensive work environment. Harassment includes conduct that the person engaged in the harassment knew or ought to have known would be intimidating, humiliating or offensive. Harassment may take several forms:

Discriminatory Harassment: Any unwelcome conduct, comment, display, action, or gesture related to any of the prohibited grounds of discrimination that detrimentally affects the work environment or leads to adverse job-related consequences for the victim of the harassment.

Sexual Harassment: Any unwelcome conduct, comment, display, action or gesture or contact of a sexual nature. Sexual harassment includes, but is not limited to, unwanted physical contact, sexual advances, requests for sexual favors and suggestive or offensive comments or gestures emphasizing sexuality, or sexual identity, and any conduct that reasonably leads to the perception that a condition of a sexual nature is being placed on a person's employment or any opportunities for persons in the workplace.

Personal Harassment: A type of harassment that is not related to one of the prohibited grounds of discrimination. To constitute personal harassment there must be: a) repeated conduct, comments, displays, actions or gestures; or b) a single serious occurrence of conduct, or a single serious comment, display, action or gesture that has a lasting, harmful effect on a person.

Bullying is a form of personal harassment that is marked by an intentional, persistent attempt of one or more persons to intimidate, demean, torment, control, mentally or physically harm or isolate another person(s).

Some examples of harassment are as follows (but are not limited to):

- racial or ethnic slurs including racial nicknames;
- remarks, jokes, innuendoes or other comments regarding an individual's body, appearance, accent, or any of the prohibited grounds;
- display of offensive or derogatory pictures, cartoons or other material in the workplace or through social media sites;
- persistent unwelcome invitations or requests;
- inappropriate physical contact such as touching, kissing, patting, pinching or brushing up against a person;
- leering, ogling or other gestures;
- verbal or written insults, abuse or threats, physical assault (actual or threatened);
- bullying, hazing, demeaning, degrading or intimidating comments;

- practical jokes which cause embarrassment, endanger safety, or negatively affect work performance;
- excluding, shunning, ostracizing, misuse of authority;
- spreading of malicious rumours or lies.

Workplace harassment DOES NOT include:

- **Human resources management:** Supervision, direction or management of employees undertaken in a good faith manner for a legitimate work purpose does not constitute harassment. For example, harassment does not include changes to working conditions, corrective action, discipline, termination of employment, decisions relating to workload and deadlines, performance evaluation, transfers, changes in job duties, lay-offs, demotions and reorganizations unless such conduct is carried out in an abusive or threatening manner or is intended to cause emotional harm.

- **Interpersonal conflict** between employees, supervisors, managers, contractors or customers is not harassment unless the conflict results in behavior that is considered threatening or abusive. Personal disputes over non work-related matters should be resolved respectfully between the persons involved or with the assistance of a supervisor, manager or HR representative.

B. Unprofessional Conduct: Behaviours that are unacceptable and can include (but are not limited to) inappropriate tone of voice, belittling behaviour such as eye-rolling, outward signs of exasperation or frustration, condescending verbal and/or body language or inappropriate communication. Although the conduct may not be deemed harassment or discriminatory, it may be found to be disrespectful or inappropriate.

C. Workplace Violence of any kind, including physical or verbal assault, is also considered as a type of disrespectful conduct. *WorkSafeBC* defines workplace violence as the attempted or actual exercise by a worker towards another worker of any physical force so as to cause injury and includes any threatening statement or behaviour which gives the worker reasonable cause to believe he or she is at risk of injury.