

**Municipality of Sioux Lookout**  
**Administrative Procedure No. 3-36**

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**Subject:** Harassment / Bully Free Workplace

**Section:** Personnel

**Applies To:** All Employees, Volunteers, Boards, Co-op Placement Personnel, Students, Agents of the Corporation, Consultants, Contractors and Council

**Effective:** June 26, 2023

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## 1. Background

- 1.1 The Corporation of the Municipality of Sioux Lookout (the “Municipality”) recognizes the importance of having a harmonious workplace which preserves personal dignity and encourages mutual respect, support and understanding amongst employees.
- 1.2 All employees have the right to work in an environment that is free from unlawful discrimination and/or harassment/bullying.
- 1.3 The Municipality considers discrimination and workplace harassment/bullying as a serious misconduct. As such, it is committed to creating and maintaining a work environment that is characterized by the principles of respect, tolerance and harmony; that is free of discrimination and workplace harassment/bullying, and where every person is treated with dignity and respect.
- 1.4 All Municipal employees have a responsibility to respect the dignity, worth and human rights of their co-workers and the public they serve.
- 1.5 Senior Leaders and Supervisors have additional responsibilities. They are obligated to discourage discrimination and harassment/bullying in the workplace; to take reasonable steps to prevent them; and to take appropriate corrective action to deal with discrimination and harassment/bullying if and when they occur.

1.6 The Municipality will not discriminate or retaliate against employees because they are or are perceived to be victims of discrimination or harassment/bullying.

1.7 Non-compliance with respect to this Policy will give rise to disciplinary action up to and including termination.

1.8 When administering this Policy, the Municipality shall do so in a fair and unbiased manner.

## 2. Definitions and Examples

2.1 **“Bullying”** is defined as a form of repeated, persistent and aggressive behaviour directed at an individual or individuals that is intended to cause, or ought reasonably to be known to cause fear and distress and/or harm to another person’s body, feelings, self-esteem, or reputation. Bullying occurs in a context where there is a real or perceived power imbalance.

2.2 **“Civility”** means the act of showing regard for others, being considerate in your interactions, and recognizing the inherent value of each individual in the Workplace.

2.3 **“Complainant”** means the individual who is alleging that Harassment or Discrimination has occurred.

2.4 **“Discrimination”** means any form of unequal treatment based on the Ontario *Human Rights Code* protected ground that results in disadvantage, whether imposing extra burdens or denying benefits. It may be intentional or unintentional. It may involve direct actions that are discriminatory on the surface, or it may involve rules, practices or procedures that appear neutral, but have the effect of disadvantaging certain groups of people.

2.5 **“Employee”** means any of the following:

- a person who performs work or supplies services for monetary compensation;
- a student who performs works or supplies services for no monetary compensation under a work experience program approved by a school board, a college, university, or other post-secondary institutions; or
- such other persons as may be prescribed who perform work or supply services to an employer for no monetary compensation.

2.6 “**Harassment**” means engaging in a course of vexatious comments or conduct that are known or ought reasonably to be known, to be unwelcome. It can involve words or actions that are known or should be known to be discriminative, offensive, embarrassing, humiliating or demeaning. It can also involve Sexual Harassment (see definition below). Harassment does not include reasonable action taken by an employer or Supervisor relating to the management and direction of Employees or the Workplace. Examples include but not limited to:

- Sexual Harassment;
- Persistent following/ stalking;
- Persistent verbal abuse or threats;
- Persistently disrupting an individual’s work, work space, equipment or interfering with their personal property;
- Jokes, derogatory or dismissive comments based on Protected Grounds;
- Gestures that are insulting or belittling;
- Circulating, displaying written or pictorial material that is offensive or belittling;
- Acts or verbal comments that could mentally hurt or isolate a person in the workplace, such as spreading malicious rumours, isolating someone socially or undermining or deliberately impeding a person’s work (i.e. bullying);
- Pornography, pin-ups, offensive cartoons; and,
- Taunts or threats directed towards any member of a protected group.

Harassment does not include reasonable action or conduct that is part or normal work duties, even if there may be unpleasant consequences. Examples would include changes in work assignments, scheduling, job assessments and evaluation, workplace inspections and disciplinary action.

2.7 “**Investigation**” means the steps taken that are appropriate in the circumstances to determine whether a violation of the Policy, has on a balance of probabilities, occurred.

2.8 “**Member of Council**” refers to any elected or appointed official on Council, including the Mayor.

2.9 “**Municipality**” refers to the Corporation of the Municipality of Sioux Lookout.

2.10 “**Ontario Human Rights Code protected grounds**” as amended means the prohibition of actions that discriminate or harass people based on one or more of the following:

- Age
- Ancestry
- Colour
- Race
- Citizenship
- Ethic Origin
- Creed
- Disability
- Family Status
- Marital Status (including single status)
- Gender identity
- Gender Expression
- Record of offences (in employment only)
- Sex (including pregnancy and breastfeeding)
- Sexual Orientation

2.11 “**Record**” includes documented business transactions, decisions, and activities, such as notes, memos, agendas, minutes, training records, etc.

2.12 “**Reprisal**” means an action, or threat, that is intended as retaliation for claiming or enforcing a right under a municipal Policy, the *Occupational Health and Safety Act* or the *Ontario Human Rights Code*. Retaliation may be either direct or indirect. Retaliation can include creating a hostile work environment, harassment, demotion, or dismissal.

2.13 “**Respondent**” means the person who is alleged to be responsible for the harassment or discrimination.

2.14 “**Respectful Workplace**” means a positive, safe, and healthy work environment in which every person is treated with dignity and respect.

2.15 “**Sexual Harassment**” means engaging in a course of vexatious comment or conduct against a worker in a Workplace because of sex, sexual orientation, gender identity or gender expression where the course of comment or conduct is known or ought reasonably to be known to be unwelcome. Making sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant, or deny benefit or advancement to the worker and the

person knows or ought reasonably to know that the solicitation or advance is unwelcome. Examples of Sexual Harassment include, but are not limited to:

- Unwelcome or offensive sexual remarks, slurs, taunting, jokes, invitations, innuendos, requests, or suggestions;
- Practical jokes of a sexual nature that causes awkwardness or embarrassment;
- Inappropriate and unwelcome comments about a person's body, physical appearance or attire;
- Unwelcome comments about a person's sex life;
- Unwelcome sexual advances, propositions or attention;
- Obscene language;
- Unnecessary or unwelcome physical contact such as touching, patting, pinching or fondling;
- Written or verbal abuse or threats;
- Sexual/physical assault, abuse, or molestation;
- Displays of pornographic or sexist pictures, graffiti or other material;
- Leering, sexually aggressive, offensive or insulting gestures; and,
- Attainment and distribution of improper information from the Internet or via email.

2.16 “**Senior Leader**” means the Chief Administrative Officer (“CAO”) and Heads of Departments.

2.17 “**Supervisor**” means a person who has charge of a Workplace or authority over an Employee and can include, but is not limited to, Members of Council, Directors, Managers, Supervisors or Forepersons.

2.18 “**Workplace**” means any land, premises, location, or thing at, upon, in, or near which an employee works, and may include but is not limited to:

- a) physical and virtual work environments (including vehicles);
- b) locations visited by Employees while travelling on Municipal-related business; or,
- c) locations of work-based social gatherings, training, and conference or travel.

2.19 “**Workplace Parties**” means Supervisors, Employees, Committees, unions and associations, service contractors, students, and volunteers.

### 3. Purpose

The purpose of this Policy is to:

- a) Define the behaviors that are expected of all Municipal Employees in support of a physical and psychological safe and health work environment; and,
- b) Comply with Municipality's legislative requirements under the Ontario *Human Rights Code*, *Accessibility for Ontarians with Disabilities Act*, and the *Occupation Health and Safety Act* respecting Harassment and Discrimination.

### 4. Application and Scope

4.1 This Policy applies to:

- Employees (including but not limited to service contractors, students, and volunteers);
- Members of Council;
- Vendors and suppliers; and,
- Members of the public (including citizen members of committees).

4.1 Exceptions

Workplace Harassment should not be confused with Workplace interactions that are legitimate and reasonable in day-to-day work, including but not limited to:

- Actions to correct performance deficiencies;
- Imposing remedies for Workplace infractions, including discipline; or,
- Difference of opinion or difference in perspective on how the work may be organized, performed or improved and where is no immediate risk of harm or injury.

## 5 Key Principles

### 5.1 Respect and Civility

All individuals have the right to work or access services in a positive, healthy, safe and respectful environment. This means that differences in perspective are

acknowledged and valued and communications and actions are civil. Respect and Civility are based on showing esteem, dignity, care and compassion for others.

### **5.2 Shared Responsibility**

It is a shared responsibility among all individuals to create a culture where everyone is treated fairly, and with compassion, where differences are acknowledged and valued and where communications and actions are civil.

### **5.3 Zero Tolerance**

Workplace Harassment or Discrimination in any form individual will not be tolerated, condoned, or ignored.

## **6 Policy Statements**

6.1 Employees will report incidents or complaints of Workplace Harassment and Discrimination to their Supervisor, Human Resources, or any member of management promptly. Where the incident or complaint involves the Employee's Supervisor, the matter may be reported to the next level of management, Human Resources, or any member of management in accordance with their responsibilities.

6.2 When a complaint is made to anyone other than Human Resources, the supervisor or the member of management will promptly advise Human Resources of the complaint.

6.3 Supervisors, Human Resources, or any member of management will promptly address, investigate and deal with incidents or complaints to ensure measures and procedures are taken to protect Employees from Harassment and Discrimination in accordance with their responsibilities.

6.4 Confidentiality will be maintained wherever possible. Out of respect for Workplace Parties involved, it is essential that the Workplace Parties involved in a complaint or Investigation maintain confidentiality throughout the process. Information may need to be disclosed to protect employees, to investigate the incident or complaint, to take corrective action, or otherwise required by law.

6.5 All individuals have the right to report or act as a witness, in good faith, incidents or complaints of Harassment or Discrimination without fear of Reprisal. Where it is confirmed that an incident of substantiated Harassment or Discrimination behavior has occurred, corrective action taken will not be considered a Reprisal.

6.6 The Municipality recognizes that involvement in Harassment or Discrimination incidents or complaints may be stressful and emotionally upsetting. All affected individuals are encouraged to seek counselling or rehabilitation from various community support systems.

## **7 Roles and Responsibilities**

### **7.1 Senior Leaders**

- a) Ensure a Harassment Free Workplace is in place and reviewed at least once annually, and a program is in place to implement this, Policy; and,
- b) Comply with section 8.2 Roles and Responsibilities of Supervisors if incidents were reported by direct reports.

### **7.2 Supervisors**

- a) Lead by creating and maintaining a positive and Respectful Workplace while being a role model for others;
- b) Be aware of what constitutes Harassment and Discrimination and the procedures in place for dealing with incidents or complaints;
- c) Post this Policy in a visible location in the Workplace and ensure Employees are able to locate this Policy in the workplace and digital location;
- d) Ensure Employee awareness of training, and monitor and enforce compliance with this Policy;
- e) In collaboration with Human Resources, support all Workplace Parties involved in resolving incidents or complaints;
- f) In collaboration with Human Resources, facilitate informal resolutions and mediations, as required;
- g) Act immediately on observations or allegations of Harassment or Discrimination;
- h) Document incidents or complaints reported by the Complainant, or are known or witnessed;



- i) Report all incidents or complaints to Human Resources promptly, who will provide support for the intake, tracking, and processing of inquiries, complaints, and investigations;
- j) Not disclose information provided about the incident or complaint except as necessary to protect the Complainant, to participate in the investigation (as required), to take corrective action, or otherwise required by law;
- k) Take no reprisal against a person as a result of reporting an incident or complaint or for providing information; and,
- l) Monitor situations where Harassment or Discrimination has occurred to ensure that it has stopped.

### **7.3 Employees**

- a) Create and maintain a positive and Respectful Workplace while being a role model for others;
- b) Ensure behaviour is respectful and appropriate at all times;
- c) Accept responsibility for any actions, reactions, behaviours and impact on others;
- d) Understand, participate in training, comply with this Policy;
- e) Review this Policy at least once annually;
- f) Report experienced or witnessed incidents or complaints to their Supervisor, Human Resources or any member of management;
- g) Where the incident or complaint involves their Supervisor, report the matter to the next level of management, Human Resources, or any member of management;
- h) Document details of Harassment or Discrimination that are experienced or witnessed; and,
- i) Cooperate with investigations of incidents or complaints.

### **7.4 Human Resources**

- a) Prepare, maintain and facilitate the review of this Policy at least once, annually;
- b) Develop and maintain a program to implement this Policy in consultation with Workplace Parties, and review the program as often as necessary;
- c) Receive all incidents or complaints of Harassment and Discrimination, and support the appropriate party to address and / or investigate, if required;
- d) Facilitate informal resolutions, mediations, and investigations, as required;
- e) Inform the Complainant and Respondent, in writing, of the outcome of the investigation and the corrective action, if any, that has been / will be taken as a result of the investigation; and

- f) Offer Harassment Free Workplace training and other requisite training as prescribed by the Ontario *Human Rights Code* and *Occupation Health and Safety Act*.

## **8 Monitoring and Compliance**

8.1 Senior Leaders and Supervisors must monitor their Employees' compliance with this Policy on an ongoing basis.

8.2 Operating departments must keep Records to verify with this Policy in case of periodic reviews by Human Resources.

8.3 The Policy must be reviewed at least once annually by Senior Leaders, Council, and Human Resources to ensure its effectiveness and to comply with legislation.

### **8.4 Consequences of non-compliance**

8.4.1 Any Employee, who violates this Policy, or found to have launched a complaint that is false, frivolous, or made in bad faith may be subject to corrective action which may include termination of employment.

8.4.2 Members of the public, visitors to the Municipal facilities or individuals conducting business with the Municipality, are expected to adhere to this Policy. This includes refraining from inappropriate behaviour, discriminatory practices and language including racial slurs and hate speech towards Employees, Members of Council, and persons acting on behalf of the Municipality. If inappropriate behaviour occurs, the Municipality will take appropriate action to ensure a Respectful Workplace. This could include barring the person from Municipal property, reporting the incident to Police or other actions with vendors or suppliers.

### **8.5 Alternate Approach**

Circumstances may exist where the provisions of this Policy may not apply or may require an alternate course of action. In these circumstances, written approval from the Chief Administrative Officer and Human Resources is required prior to any alternate action.

## 9 Confidentiality

- 9.1 All people involved with a complaint must ensure that the matter remains confidential. These persons include, but are not limited to, witnesses, representatives, Supervisors, Human Resources and the Investigators. An employee who discloses confidential information except as allowed under this Policy may be subject to discipline.
- 9.2A complaint shall be investigated and dealt with in a discreet and confidential manner, to minimize embarrassment to either party. All investigations, interviews and deliberations shall be conducted in strict confidence to the extent possible. The Municipality will endeavour to keep all complaints, notes of the interviews or meetings, investigation reports, records of disciplinary action and other related records in strict confidence. The documents will be stored with the Human Resources Department. Information about a complaint, its investigation and/or resolution shall be released only on a need-to-know basis, as determined by the Human Resources Manager.
- 9.3 The Municipality cannot guarantee confidentiality if the complainant chooses to initiate proceedings or make comments outside the Municipality's internal complaint process. Information collected and retained is subject to the *Municipal Freedom of Information and Protection of Privacy Act*.

## 10 Avenues of Complaint

- 10.1 Depending on the circumstances, an Employee may choose any of the following avenues of complaint:
- **Informal Action:** The Employee may wish to attempt to resolve the problem themselves without filing a formal complaint.
  - **Formal Complaint:** If informal attempts at resolving the problem are inappropriate or ineffective, a formal complaint and Investigation may be warranted.
  - **Other Avenues:** Nothing in this Policy should be interpreted as denying or limiting access to other avenues of redress available under the law. However, the Municipality may suspend, postpone, or cancel any investigation into a complaint under this program if it is believed that the investigation would duplicate or prejudice such a proceeding.

## 11 Formal Complaint Process

### 11.1 Right to Complain

11.1.1 An employee has the right to complain about a situation that they believe is Harassment/Bullying under this Policy.

11.1.2 A complaint may be filed by the actual victim of alleged harassment/bullying; by a group of employees who may have been subjected to the same offensive treatment; by a co-worker who witnesses the incident(s); or by a third party complaining on behalf of the victim(s).

### 11.2 Reporting a Complaint

11.2.1 A complaint should be reported as soon as possible after the action or behaviour being complained about occurred. Promptness in reporting a complaint protects the rights of both the person making the Complainant and the person complained against Respondent.

11.2.2 While an Employee may choose to make a verbal complaint, it is in the best interest of all concerned to have a written summary of allegations. A letter of complaint should contain a brief account of the offensive incident, when it occurred, the person(s) involved and the name(s) of any witnesses.

11.2.3 The letter of complaint should be signed and dated by the complainant.

11.2.4 A complaint under this Policy may be submitted to a Senior Leader, Supervisor, or Human Resources. If the complaint is submitted to a Senior Leader or Supervisor it should be referred directly to Human Resources within two (2) working days of receipt.

11.2.5 Although an employee may file a formal complaint, Human Resources may determine that given the circumstances surrounding the complaint, the matter will be dealt with as an informal action. If Human Resources does not determine that the complaint will be dealt with informally, they shall assign one or more Investigators to investigate the complaint and report back with recommendations. Alternatively, Human Resources may choose to investigate the complaint internally.

## 12 Settlement/ Remedy

- 12.1 Depending on the circumstances, it is often possible to resolve a complaint after only a simple investigation and without the laying of blame. For example, a complaint regarding the circulation of offensive cartoons may be resolved simply by circulating a memo prohibiting the practice.
- 12.2 In determining an appropriate settlement, the Investigator(s) and/or Manager, in consultation with the Human Resources Manager should endeavour as much as possible to reach a settlement that is satisfactory to both the complainant and the respondent.

### **13 Investigations**

- 13.1 As soon as reasonably practicable, the person assigned shall initiate the investigation by meeting with the complainant. The Complainant has the right to be accompanied by another person of his/her choice in any meeting with an investigator. The Investigator shall confirm receipt of the complaint, clarify details, and apprise the complainant of the steps that will be taken.
- 13.2 After the initial meeting with the Complainant, the Investigator will determine whether the complaint(s), if taken as true, meet the definition of bullying/harassment as defined in this Policy. In the event that all complaints are determined not to meet the definition of bullying/harassment, then the Investigator will conclude the investigation and provide a report describing the same. In the event that a portion of the complaint(s) do meet the definition, then only those portions of the complaint(s) will be investigated.
- 13.3 At any point during the investigation, the Investigator may submit a report to the Human Resources department or to the Chief Administrative Officer making a recommendation to stop dealing with a complaint where:
- 13.3.1 the complaint is trivial, frivolous, vexatious or made in bad faith, or an abuse of process;
  - 13.3.2 having regard to all the circumstances, further investigation of the matter is unnecessary; or
  - 13.3.3 the complaint has been settled by the parties.

- 13.4 To that extent possible, the Investigator shall ensure that the complaint is investigated promptly and fairly, in a discreet and confidential manner so as to minimize embarrassment to all parties, in accordance with the principles of natural justice.
- 13.5 The Investigator has the authority, subject to applicable laws, to speak to anyone, examine any documents and enter any work locations that are relevant to the complaint.
- 13.6 The Respondent to a complaint has the right to reply to the allegation and the right to be accompanied by a person of their choice in any meeting with an Investigator.
- 13.7 In all circumstances, the Respondent must be provided with an opportunity to respond to the allegations, including additional allegations that arise in the course of the investigation. Depending on the circumstances, the Investigator will determine how the allegations will be provided to the Respondent. Options include:
- providing allegations during the initial investigative interview, either orally or in writing;
  - providing a follow-up meeting to allow for an additional opportunity to respond to the concerns;
  - in some limited circumstances, where appropriate, and at the discretion of the Investigator, the respondent may be provided the allegations either orally or in writing, in advance of the initial meeting with the Investigator (e.g. where an external Investigator is conducting the investigation).
- 13.8 Persons not named in the complaint who may have some personal knowledge about the incident may also be interviewed.
- 13.9 All employees and members of Council are expected to cooperate with the investigation process and participate when requested to do so by the investigator. No disciplinary action will be taken against an employee or Council member who does not provide a response during the investigation; however, adverse findings can be made against those individuals who refuse to explain their actions.
- 13.10 The investigation should be completed within 90 days from the date that the Complainant is notified that an investigation is required. Parties will be advised in writing prior to the end of the 90 day period if a delay is anticipated.

Completion of investigations must not exceed 6 months unless there are extenuating circumstances. Any additional delays must be communicated in writing to the parties.

- 13.11 Depending upon the circumstances, the Supervisor, Manager, or Department Head in consultation with the Human Resources Manager may determine that it is appropriate to physically and/or operationally separate the employee and the alleged harasser until the investigation has been completed.

## **14 Findings and Recommendations**

- 14.1 Once the investigation is complete, the investigator will submit a confidential written report to the Human Resources manager. The investigator will endeavour to submit a written report within thirty (30) days from the receipt of the complaint. The report will summarize the investigator's findings and conclusions and will recommend corrective action if appropriate.
- 14.2 A conclusion about whether a specific incident of workplace harassment/bullying did or did not occur should be based upon the information obtained in the investigation, an assessed on a balance of probabilities.
- 14.3 The Investigator may make recommendations in their written report on any matter except discipline.
- 14.4 The Complainant(s) and Respondent(s) will be promptly advised of the outcome of the investigation and provided with a summary of the findings by the investigator.
- 14.4.1 Where a complaint involves a Member of Council or the Chief Administrative Officer, the report and recommendations (if any) will be provided on a confidential basis in a Closed Session of Council.

## **15 Discipline and Counselling**

- 15.1 Depending on the circumstances, if an employee is found to have engaged in harassment/bullying under this Policy, such conduct will be considered a form of employee misconduct.
- 15.2 Staff who are in a supervisory position and fail to take action when they become aware of or are advised of alleged discrimination and/or harassment may also be subject to disciplinary action.

15.3 Disciplinary action may also be taken if a complaint is found to be vexatious, made in bad faith and/or is an abuse of process.

15.4 Consequences for policy violations may include but are not limited to: counselling, education and training, a verbal or written reprimand, suspension with or without pay, a transfer or termination of employment. In determining appropriate consequences, factors including, but not limited to, the following will be taken into account: the nature of the violation, the severity, whether the individual has previously violated this Policy and/or whether there is relevant discipline on file.

15.5 Service, facility users, or those contracting with the Municipality who have been found to engage in discrimination, harassment, or reprisal may be subject to service limitations, issuance of a trespass notices, removal under the *Trespass Property Act*, or other consequences as deemed appropriate in the circumstances.

15.6 The appropriate counselling or disciplinary action imposed, if any, shall be determined by the Chief Administrative Officer, through recommendation by the Human Resources Manager and the affected Department Head. If the respondent is the Chief Administrative Officer then the appropriate counselling or disciplinary action imposed, if any, shall be determined by Council.

## **16 Education and Training**

16.1 All new employees shall be made aware of this Policy through the Employee orientation process.

16.2 Senior Leaders and Supervisors shall ensure that a copy of the Policy is readily accessible in the Workplace and shall ensure that all employees under their direction are aware of and comply with the Policy.

16.3 Supervisors shall ensure that the Employees that are under their supervision are aware of the Policy and all supervisory personnel shall act as good role models.



## **17 Filing a Complaint with the Human Rights Tribunal of Ontario or the Canadian Human Rights Tribunal**

17.1 Whether or not a complaint has been submitted to the employer, any employee may file a complaint of harassment with the Human Rights Tribunal of Ontario or the Canadian Human Rights Tribunal.

17.1.1 An Employee may contact the Tribunal through one of the following methods:

### **Human Rights Tribunal of Ontario**

Toronto Office (416) 326-1312 (TTY: 416-326-2027)

Toll Free at (866) 598-0322

Email: [hrto.tdpo@ontario.ca](mailto:hrto.tdpo@ontario.ca)

### **Canadian Human Rights Tribunal**

Ottawa Office (613) 995-1707 (TTY: 613-947-1070)

Email: [registrar@chrt-tcdplgc.ca](mailto:registrar@chrt-tcdplgc.ca)