

COLUMBIA HYDRO CONSTRUCTORS LTD.

(CHC)

WORKPLACE DISCRIMINATION

AND HARASSMENT

POLICY

Amended August 2021

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1. POLICY STATEMENT

CHC is committed to providing a work environment in which all individuals are treated with respect and dignity and are free from discrimination and harassment. CHC considers workplace discrimination and harassment a serious offence and will not tolerate behavior that may undermine the respect, dignity, self-esteem, or productivity of any employee on a CHC construction site.

Achieving a work environment free from discrimination and harassment greatly depends on mutual respect, cooperation and understanding among workers. Attitudes and behavior that undermine this goal are detrimental to everyone. CHC will make every reasonable effort to ensure that no employee on a CHC construction site will be subjected to discriminating and/or harassing behavior.

2. PURPOSE

The purposes of this Policy are:

- (a) to promote and maintain a working environment in which all employees on CHC construction sites are treated with respect and dignity and free from discrimination and harassment;
- (b) to set out the types of behavior that may be considered workplace discrimination and harassment;
- (c) to outline the roles and responsibilities of Columbia Hydro Constructors Ltd. and the Allied Hydro Council of BC, their officers, business representatives, staff, employees or assigned designates in fostering a workplace free from discrimination and harassment; and
- (d) to establish guidelines for dealing with workplace discrimination and harassment complaints in an effective and timely manner and to establish a procedure for informal and formal review and resolution.

Notwithstanding the existence of this Policy, every person continues to have the right to attempt to seek assistance from the B.C. Human Rights Tribunal to initiate a human rights complaint, from the Police if the complaint is of a criminal nature, or through the processes outlined in the Collective Agreement between Columbia Hydro Constructors Ltd. and the Allied Hydro Council of British Columbia, if appropriate and applicable. It should be noted that a Human Rights complaint must be pursued within one year of the date of the occurrence of the alleged incident upon which the complaint is based, and in the case of an alleged continuing contravention within one year of the date of the last alleged contravention.

This Policy is not intended to constrain normal social interaction between employees on CHC construction sites. This Policy has been adopted to make clear that discrimination and harassment will not be tolerated at any CHC worksite.

3. SERIOUSNESS

All complaints of workplace discrimination and harassment will be taken seriously and will be dealt with in a confidential, impartial and timely manner. It is imperative that all employees on a CHC construction site understand the seriousness of a violation of this Policy. Violation of this Policy will not be tolerated and may be a disciplinary offence. Any employee on a CHC construction site violating this Policy may be subject to discipline up to and including termination.

Any employee on a CHC construction site who threatens to file a complaint against another employee for alleged past misconduct, or threatens to file a future complaint but does not pursue that complaint formally, shall be subject to discipline up to and including termination.

4. RETALIATION

For the purposes of this Policy, retaliation against an individual,

- (a) for having invoked this Policy (whether for one's self or on behalf of another individual); or
- (b) for having participated in or cooperated with any investigation under this Policy; or
- (c) for having assisted a person who has invoked this Policy or has participated in its procedures,

will be treated as harassment, and may be dealt with in accordance with this Policy.

Retaliation includes actions or comments that trivialize the complaint or the person making the complaint (the "Complainant"). It also includes criticisms of the Complainant or the person alleged to be responsible for the conduct (the "Respondent"). Retaliation includes, but is not limited to, the following:

- (a) the Respondent confronting the Complainant about the complaint;
- (b) the Respondent initiating negative discussions about the Complainant or the complaint with any other employee on a CHC construction site; or
- (c) in a case where the Respondent is in a position of power over the Complainant, the Respondent accusing the Complainant of being disloyal or making employment or management decisions that could reasonably be seen to be retaliatory.

A Respondent is not necessarily someone who is:

- a person in a superior position;
- a member of the opposite sex; or
- aware that his/her behaviour is considered unwelcome.

5. CONFIDENTIALITY

Every effort will be made to keep complaints confidential. Where there is risk to any other employee or member of an affiliated union on a CHC construction site, disclosure will be made to the extent necessary to remedy the situation. Furthermore, disclosure may be made to appropriate authorities where required or authorized by law.

Disclosure of complaint information will be made where it is reasonable for the purposes of investigating or resolving the complaint, but will be limited to the information required to accomplish those purposes. CHC, its Contractors (as defined in the AHC/CHC Collective Agreement), or their assigned designates shall not disclose to outside parties the name of the Complainant, the circumstances giving rise to the complaint, or the name of the Respondent, except where necessary for the purpose of investigating the complaint, taking disciplinary measures in relation thereto, seeking legal advice, or if required or authorized by law.

Initially, a Complainant may wish to discuss their concern with the designated Discrimination and Harassment Councilor on site without giving the name of the potential Respondent. The anonymity of both the Complainant and the Respondent must be respected until the designated Discrimination and Harassment Councilor chooses a resolution process that requires such identification.

A breach of confidentiality will be considered a breach of this Policy and may be subject to disciplinary action. Alternatively, such a breach may be considered to be a form of harassment or retaliatory conduct and will be dealt with as set out in Section 4.

6. APPLICATION OF THE POLICY

This Policy applies to all officers, union business representatives, staff and other employees on CHC construction sites.

(a) What is the workplace?

This Policy applies to all CHC construction sites where there is a sufficient relationship between the conduct or comment complained of and the functioning of the workplace. It applies to all events related to or in association with the roles and responsibilities of CHC, or their assigned designates including:

- (i) any location where CHC business is being carried out (i.e. construction sites, offices, buildings, grounds, meeting rooms, and vehicles);
- (ii) in the course of work assignments outside the normal working environment;
- (ii) at work related conferences or training sessions;
- (iii) during work related travel;
- (iv) elsewhere where the Complainant is there as a result of work related responsibilities or a work related relationship; and
- (v) other locations and situations (i.e. staff parties, after hours get-togethers, and business related social functions etc.) where the prohibited behaviour has or may be reasonably viewed as having an impact on the work relationship.

7. DEFINITIONS

(a) What is discrimination?

Under the British Columbia Human Rights Code (the "Code"), CHC has a duty not to discriminate regarding employment. Section 13 of the Code provides that no person shall

refuse to employ or refuse to continue to employ or discriminate against a person with respect to employment, or any term or condition of employment, on any of following grounds:

- race
- colour
- ancestry
- place of origin (e.g. birthplace)
- political belief
- marital status
- conviction for an offence unrelated to employment
- family status (e.g. parent-child relationship)
- religion
- physical disability
- mental disability
- age
- sex
- sexual orientation
- gender expression or identity

These are referred to as "**Prohibited Grounds**".

(b) What is harassment?

The Code does not specifically define or prohibit harassment. However, tribunals have held that harassment based on a Prohibited Ground is a form of discrimination. Harassment also includes personal harassment, which is not based on a Prohibited Ground.

For the purposes of this Policy, workplace harassment is an incident or a series of incidents involving unwelcome comments or actions based on a Prohibited Ground or an incident of personal harassment or a series of incidents which amount to personal harassment, including bullying, or discrimination when:

- i) such conduct might reasonably be expected to cause insecurity, discomfort, offence or humiliation to another person or group;
- ii) submission to such conduct is made either implicitly or explicitly a condition of employment;
- iii) submission to or rejection of such conduct is used as a basis for any employment decision including, but not limited to, matters of promotion, raise in salary, work assignments, job security or benefits affecting the employee or member of an affiliated union on a CHC construction site; or
- iv) such conduct has the purpose or the effect of interfering with a person's work performance or creating an intimidating, offensive or poisoned work environment.

Some action may not be considered harassment unless repeated.

Whether or not an individual intends to harass is not relevant.

Harassment can take place between individuals of the same or different status; it can involve individuals or groups. All people can be the subject of harassment.

Physical and sexual assault or threats of violence directed towards an employee on a CHC construction site are criminal matters and should also be referred directly to your local police department.

For the purposes of this Policy, harassment means conduct or comment that would constitute:

- (i) discrimination under the Code,
- (ii) sexual or personal harassment

Examples of personal harassment and discrimination could include, but are not limited to:

- derogatory or demeaning comments, jokes, slurs;
- derogatory or demeaning posters, pictures, cartoons, graffiti, drawings;
- innuendoes, taunting, bullying, belittling or ostracizing an employee;
- undermining a person's dignity by causing embarrassment, humiliation, discomfort or offence;
- practical jokes which cause awkwardness, compromise the person's safety or negatively affect performance;
- creating an intimidating, offensive or poisoned work environment;
- interfering with an individual's performance and/or potential performance (e.g. withholding work related information and/or inequitable assignment of duties);
- condescending, paternalistic, or patronizing behaviour which undermines self-esteem, diminishes performance, or adversely affects working conditions; or
- exclusion or shunning.

Harassment excludes any reasonable action taken by CHC or one of its contractors relating to the management and direction of workers or the place of employment.

(c) What is sexual harassment?

Sexual harassment is a form of discrimination based on sex. It includes unwelcome comment or conduct of a sexual nature when any one or more of the following conditions exist in the workplace:

- (i) when such conduct might reasonably be expected to cause insecurity, discomfort, offence or humiliation to another person or group;
- (ii) when submission to such conduct is made a condition of employment either implicitly or explicitly;
- (iii) when submission to or rejection of such conduct is used as a basis for any employment decision (including, but not limited to, matters of promotion, raise in salary, benefits affecting the employee on a CHC construction site and job security); or
- (iv) when such conduct or comment intentionally or unintentionally has the effect of interfering with a persons work performance or creating an intimidating, offensive or poisoned work environment.

Often, a harasser is someone in a position of authority, but peers and co-workers may harass as well. Although sexual harassment most commonly occurs by men towards women, it can also occur between any combination of genders including but not limited to, men, women, transgender, gender neutral, non-binary, pangender, genderqueer, two-spirit, and third gender.

Examples of sexual harassment could include but are not limited to:

- unwelcome remarks, questions, jokes, innuendo or taunting about a person's body, sex or sexual orientation, including sexist comments or sexual invitations;
- verbal abuse or threats of a sexual nature;
- leering, staring or making sexual gestures;
- display of pornographic or other sexual materials in the form of degrading pictures, graffiti, cartoons or sayings;
- unwanted physical contact such as touching, patting, pinching or hugging;
- intimidation, threats or actual physical assault of a sexual nature;
- persistent unwanted contact or attention after the end of a consensual relationship;
- sexual advances with actual or implied work-related consequences; or
- inquiries or comments about a person's sex life or sexual orientation.

This definition of sexual harassment is not meant to inhibit interactions or relationships based on mutual consent or normal social contact between employees on CHC construction sites.

(d) What is harassment based on sexual orientation?

Harassment based on sexual orientation is comment or conduct that is known, or ought reasonably to be known, to be unwelcome and focusing on an individual's sexual orientation.

Examples of behaviour constituting harassment based on sexual orientation may include, but are not limited to:

- unwelcome remarks, jokes, innuendo, or taunting about a person's sexual orientation;
- inquiries about a person's sex life or sexual orientation;
- abusive or threatening behaviour because of a person's sexual orientation; or
- assumptions, remarks, or decisions that reflect homophobic attitudes or behaviours.

(e) What is harassment based on gender expression or identity?

Harassment based on gender expression or identity is comment or conduct that is known, or ought reasonably to be known, to be unwelcome focusing on an individual's gender expression or identity.

The BC Human Rights Tribunal defines gender expression and identity as follows:

- **Gender identity** is a person's sense of themselves as male, female, both, in between or neither. It includes people who identify as transgender. Gender identity may be different or the same as the sex a person is assigned at birth.
- **Gender expression** is how a person presents their gender. This can include behavior and appearance including dress, hair make-up body language and voice. This can also include name and pronoun, such as he, or she or they. How a person presents their gender may not necessarily reflect their gender identity.

Examples of behaviour constituting harassment based on gender identity or expression may include, but are not limited to:

- unwelcome remarks, jokes, innuendo, or taunting about a person's gender identity or expression;
- inquiries about a person's gender identity or expression;
- abusive or threatening behaviour because of a person's gender identity or expression; or
- assumptions, remarks, or decisions that reflect transphobic attitudes or behaviours.

(f) What is racial harassment?

Racial harassment is a form of discrimination based on race. It is generally defined as comment or conduct that is known, or ought reasonably to be known, to be unwelcome and focusing on an individual's race, ethnic origin or culture.

Examples of racial harassment could include, but are not limited to:

- Racial, cultural or ethnic slurs, including racially derogatory nicknames; or
- unwelcome remarks, jokes, innuendo, or taunting about a person's racial background, ethnic origin or accent.

(g) What is personal harassment/bullying?

Further examples of personal harassment or bullying could include, but are not limited to:

- threats, bullying, coercion;
- actual or threatened physical assault;
- verbal assault, taunting or ostracizing (i.e. name calling, sarcasm, demeaning comments);
- malicious gestures or actions (i.e. hitting, throwing, kicking, pushing or grabbing an object or a person);
- dealing inappropriately with a workplace incident in front of other another employee, or
- directing derogatory, insulting, or threatening behaviours or comments toward another employee.

(h) What is a "poisoned work environment"?

Harassment may also include conduct and comments that may or may not be directed specifically at an individual but which nonetheless create a degrading, offensive or so-called "poisoned" work environment.

Examples of harassment that may lead to a poisoned work environment could include, but are not limited to:

- displaying of materials or graffiti which are degrading or derogatory with respect to race, ethnic origin or religious belief;
- displaying materials or graffiti that is sexually explicit,
- making derogatory comments about a minority group, even though no member of that group is present;
- telling sexist or racist jokes to colleagues
- bullying

(i) How do you assess whether conduct constitutes discrimination or harassment?

While this Policy's definitions of discrimination and harassment are not exhaustive, it has attempted to be definitive of the types of actions and behaviours that will not be permitted on a CHC construction site. In assessing whether certain conduct constitutes discrimination or harassment, CHC decision makers will refer to this Policy and the current guidelines and case law issued by WorkSafeBC and the BC Human Rights Tribunal.