

Did You Know?

You just received a letter from the District alleging that you have harassed one of your staff members.

You are totally caught off guard: no-one on your staff has mentioned anything to you about this. Your mind is racing.

What do you do?

ha·rass·ment

/hə'rasmənt, 'herəsmənt/



Don Boyd is a Director in the BCPVPA's Member Support Services department, and supports members with issues associated with employment relationships.

This scenario plays out across the province throughout the year for some of our members. In this article, we would like to present what 'harassment' is, what it isn't, what you can expect during an investigation and what type of support you will receive from the BC Principals' & Vice-Principals' Association.

We begin with a definition of **harassment**. It is defined in Article E.2 of the Teachers' Collective Agreement as *"any improper behaviour that would be offensive to any reasonable person, is unwelcome, and which the initiator knows or ought reasonably to have known would be unwelcome"*. This includes objectionable conduct, comments, displays that aim to demean, belittle, humiliate or a misuse of power or authority such as intimidation, threats and coercion.

The level of harassment is guided by the words of arbitrator Heather Laing – British Columbia & BCGEU (1995) 49 LAC (4th) 193 in which she stated, *"I do not think that every act of workplace foolishness was intended to be captured by the word 'harassment'. This is a serious word, to be used seriously and applied vigorously when the occasion warrants its use. It should not be trivialized, cheapened or devalued by using it as a loose label to cover petty acts of foolish works, where the harm, by any objective standard, is fleeting. Nor should it be used where there is no intent to be harmful in any way, unless there has been a heedless disregard for the rights of another person, and it can be fairly said 'you should have known better.'"*

WorkSafe BC defines 'harassment' by saying, *"Not every unpleasant interaction or disrespectful behaviour in the workplace is bullying or harassment. It states that any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that work to be humiliated or intimidated is bullying and harassment."*

In addition to the above, each School District has a policy that deals with maintaining a harassment-free work environment for employees. An example of the language is:

"The Board of Education of School District #____ recognizes the right of employees and students to work and learn in an environment free from bullying and harassment (including sexual harassment)."

What Harassment is and is Not

Source: Harris & Co., WorkSafe BC

Not Harassment:

Reasonable action by employer or supervisor

- Managing or directing workers
- Managing or directing the workplace
- Normal supervisory rights and responsibilities
- Normal social contact

The following actions *do not* constitute harassment:

- Managerial right: routine supervision, performance evaluations
- Appropriate discipline
- Lack of friendliness, grumpy response
- Denial of request for time off
- Interpersonal differences or professional disagreements
- Request or directive to do something that a reasonable person would consider part of the job

Harassment:

Some of the actions deemed not to be harassment might be considered harassment IF the employee is singled out for unique and substandard treatment that a reasonable person might consider unwelcome and undeserved.

The following actions do constitute harassment:

- Spreading gossip or rumours
- Vandalizing workers belongings
- Sabotaging work
- Aggressive threatening gestures
- Verbal aggression or insults
- Personal attacks based on private life, personal traits

- Cyber bullying
- Targeted social isolation
- Harmful initiation practices
- Creation of a poisoned work environment

In the more than two decades since harassment was negotiated in the BCPSEA-BCTF collective agreement, approximately 200 harassment allegations have been initiated against Principals and Vice-Principals. More than 90 percent of those investigations have resulted in findings that no harassment took place. In many of these cases, the investigator found that the school administrator was acting within his or her rightful authority as a Principal or Vice-Principal. Where harassment has been found, the consequences have varied and can include discipline up to termination. The most serious consequences are against individuals who engaged in sexual harassment.

A lesser number of allegations for harassment are made by support staff under the terms of CUPE and other support staff union collective agreements.

What Should You Do?

The initial response for many members who face an allegation of harassment is to contact the District for support and guidance in the matter. The District's usual response is to direct the member to the BCPVPA for support and guidance.

When you contact the BCPVPA, you are directed to the Member Support Services Department where you will speak with one of the professional staff.

The staff member will listen to you and provide you with an overview of the process. You will also be asked to begin gathering documentation regarding the allegations in preparation for your interview. This may include emails, notes from meetings, texts, memos and telephone conversations. You will then direct your attention to responding to the initial allegations that have been brought against you: you will create a chronology of the events leading up to the allegation, including how you know the person, in what context you have worked with them, what your working relationship with the person has been like. It

Stay on top of your professional health



The BCPVPA is pleased to offer its members the Early Intervention Program (EIP) by humanworks

Here to help you gain greater clarity and control of your professional health

BCPVPA EARLY INTERVENTION PROGRAM

The EIP offers an excellent opportunity to be proactive in managing your health and well-being. It is designed to provide you with quick and easily accessible resources and counsel on how to best navigate your health-related concerns so that you can remain at work.

Questions about the EIP?

Visit the FAQ section on the BCPVPA or humanworks websites or contact:

humanworks

EMAIL: admin@humanworks.ca

PHONE: 604-734-4130

www.humanworks.ca

is important to be factual and forthright throughout the process, as the investigator will examine credibility.

In most cases, harassment investigations are conducted by skilled independent investigators contracted by the District, many of which are lawyers. Both the complainant(s) and respondent are interviewed, and BCPVPA members have representation from BCPVPA staff throughout the process, including at meetings with the investigator.

Investigation Steps

Initial Allegation



Written allegation by complainant

Notification Letter to respondent from Superintendent

District selects investigator

Collection of Materials



Member contacts BCPVPA for support and guidance

Member sends notification to Superintendent that BCPVPA will be representing them

Member begins gathering of materials for defence

Interview Process



Investigator begins interview process, complaint first, then any witnesses

Interview of the respondent and any witnesses they may identify

Investigator completes report and findings and sends them to the District with any recommendations

Member informed of the findings of the investigation in meeting with the District

The findings of the investigation will either substantiate the allegations, or state that they are unfounded. The District will then follow up with the member: it may result in no further action, or steps to correct the pattern of behavior such as course work, coaching or training. In extreme cases the member may face a suspension and even termination with or without cause.

Being the subject of a complaint of harassment can be unnerving and embarrassing for the respondent. It is important that members reach out to the BCPVPA for support and guidance. If you require more information on this topic, please contact a member of the BCPVPA Member Support Services Department.

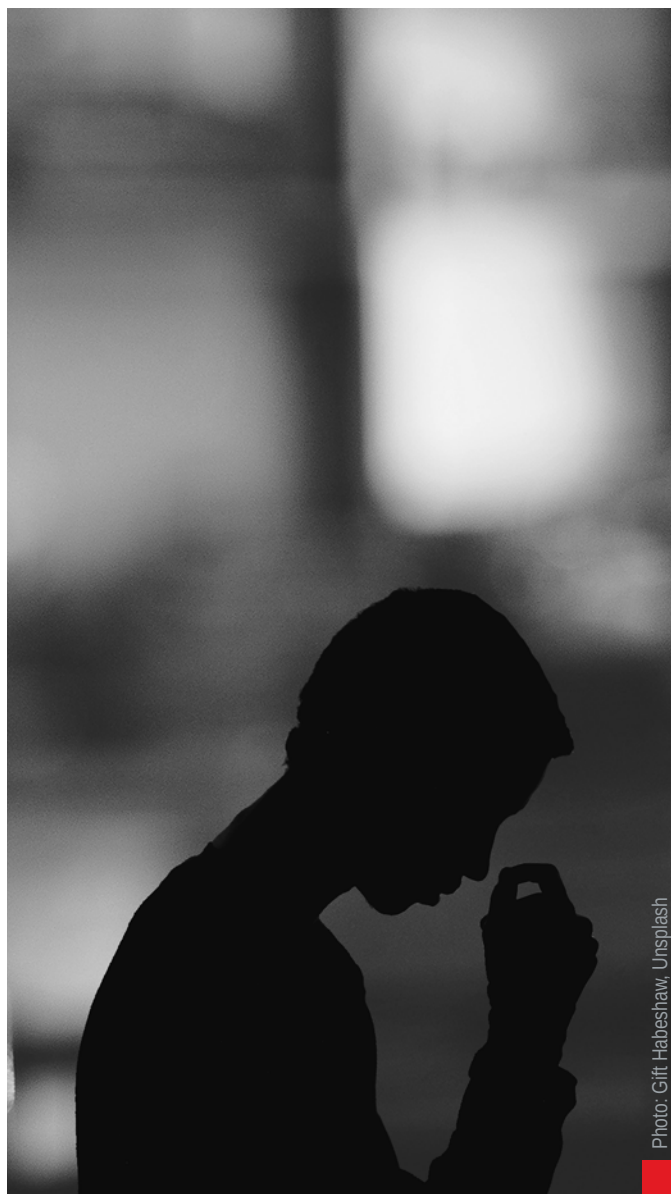


Photo: Gift Habeshaw, Unsplash