The *Workers Compensation Act* requires that the employer must post a copy of this report in a conspicuous place at or near the workplace inspected for at least seven days, or until compliance has been achieved, whichever is the longer period. A copy of this report must also be given to the joint committee or worker health and safety representative, as applicable.

A revised version of the *Workers Compensation Act* took effect on April 6, 2020. The B.C. government's revisions aim to make the Act easier to read and understand, and to reorganize the numbering to make laws easier to find. The revisions make no changes to B.C.'s laws concerning workers' compensation, occupational health and safety, and employers' assessment premiums. Please be aware there may be a transitional period where correspondence from WorkSafeBC may include references to either the previous Act or the revised Act. For more information, visit www.worksafebc.com/WCA2019 or call the Prevention Information Line at 604.276.3100, or toll free within BC at 1.888.621.7233 (SAFE).

<table>
<thead>
<tr>
<th>Employer Name</th>
<th>Jobsite Inspected</th>
<th>Scope of Inspection</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNIVERSITY OF VICTORIA</td>
<td>3800 Finnerty Road, Victoria BC</td>
<td>Medical Sciences Building 104A</td>
</tr>
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**Inspection Report #202015527127A**

<table>
<thead>
<tr>
<th>Date of Initiating Inspection</th>
<th>Date of This Inspection</th>
<th>Delivery Date of This Report</th>
<th>Delivery Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul 16, 2020</td>
<td>Jul 16, 2020</td>
<td>Jul 16, 2020</td>
<td>Email</td>
</tr>
</tbody>
</table>

**THERE ARE ZERO (0) ORDERS OR OTHER ITEMS OUTSTANDING**

**ACTION MAY STILL BE NECESSARY TO ENSURE COMPLIANCE**

**PLEASE READ FULL REPORT**
INTRODUCTION

I spoke with the employer representative by phone on July 16, 2020, in order to determine whether the employer had records of training for bullying and harassment policy and procedures within the last year for the Medical Sciences division. Refer to the yellow-highlighted WorkSafeBC Guideline sections below.

EMPLOYER ACTIONS REQUIRED

The employer is required to submit evidence of training within the last year of the Medical Sciences staff at the jobsite specific to workplace bullying and harassment. Please provide them to me by no later than August 16, 2020.

BULLYING and HARASSMENT

G-P2-21(1)-3 Bullying and harassment
Issued November 1, 2013; Editorial Revision April 6, 2020

"bullying and harassment"
(a) includes any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but
(b) excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

Reasonable Steps to Address the Hazard

WorkSafeBC considers that reasonable steps by an employer to prevent where possible, or otherwise minimize, workplace bullying and harassment include the following:

(a) developing a policy statement with respect to workplace bullying and harassment not being acceptable or tolerated;
(b) taking steps to prevent where possible, or otherwise minimize, workplace bullying and harassment;
(c) developing and implementing procedures for workers to report incidents or complaints of workplace bullying and harassment including how, when and to whom a worker should report incidents or complaints. Included must be procedures for a worker to report if the employer, supervisor or person acting on behalf of the employer, is the alleged bully and harasser;
(d) developing and implementing procedures for how the employer will deal with incidents or complaints of workplace bullying and harassment including:
   i. how and when investigations will be conducted;
   ii. what will be included in the investigation;
   iii. roles and responsibilities of employers, supervisors, workers and others;
   iv. follow-up to the investigation (description of corrective actions, timeframe, dealing with adverse symptoms, etc.);
   v. record keeping requirements;
(e) informing workers of the policy statement in (a) and the steps taken in (b);
(f) training supervisors and workers on:

i. recognizing the potential for bullying and harassment;

ii. responding to bullying and harassment; and

iii. procedures for reporting, and how the employer will deal with incidents or complaints of bullying and harassment in (c) and (d) respectively;

(g) annually reviewing (a), (b), (c), and (d);

(h) not engaging in bullying and harassment of workers and supervisors; and

(i) applying and complying with the employer's policies and procedures on bullying and harassment.

Purpose of guideline
The purpose of this guideline is to provide information regarding the requirement for employers to prevent where possible, or otherwise minimize, workplace bullying and harassment. This guideline also provides information on WorkSafeBC's approach to dealing with individual specific complaints relating to cases of bullying and harassment, including the right to refuse work and discrimination concerns.

While this guideline provides guidance on the application of the Policy under section 21 relating to bullying and harassment, a handbook and other resources providing detailed information on how to prevent and deal with workplace bullying and harassment is provided in an online tool kit of resources produced by WorkSafeBC.

Background
All employers are required to take steps to eliminate, where possible, or otherwise minimize the risks to workers from bullying and harassment in the workplace. It is the employer's responsibility to take steps including developing and implementing procedures for workers to report incidents or complaints of workplace bullying and harassment, and developing and implementing procedures for how the employer will deal with complaints, in order to minimize bullying and harassing behaviours at the workplace. Supervisors and workers also have obligations in connection with bullying and harassment. The Policies relevant to supervisors and workers are available here.

What is "bullying and harassment"?
"Bullying and harassment" is defined in the Policy as including "any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment."

There are a number of elements in the definition, which are described below.

"Conduct or comment"
The use of these two terms is intended to indicate that a broad spectrum of behaviour is captured in the definition. It includes not just words, but actions, gestures and other behaviours.

Examples of conduct or comment that might constitute bullying and harassment include, but are not limited to, the following:

- Verbal aggression or insults; calling someone derogatory names;
- Vandalizing a worker's belongings or work equipment;
- Sabotaging a person's work;
- Spreading malicious gossip or rumours about a person;
- Engaging in harmful or offensive initiation practices;
- Physical assault or threats (this would also constitute "violence" or "improper activity or behaviour");
- Making personal attacks based on someone's private life and/or personal traits;
- Making aggressive or threatening gestures; and
- Engaging in targeted social isolation

While a number of these examples will involve overt or easily observable behaviours, bullying and harassment can also include more subtle and less obvious conduct or comment. Whether any conduct or comment will constitute bullying and harassment will depend on the context, and whether the individual engaging in the conduct or comment knew or reasonably ought to have known that the worker subject to it would be humiliated or intimidated.

"By a person"
Bullying and harassment is not limited to behaviour engaged in by a worker towards another. The definition encompasses behaviour engaged in by a person that a worker may encounter at the workplace, such as clients, customers, members of the public, etc. While employers and supervisors may not have direct control over the behaviour of such non-workers, it is important to acknowledge that employers and supervisors must implement procedures to ensure bullying and harassing behaviour from non-workers is prevented or minimized, and appropriately addressed if such behaviour should occur.

"Knew or reasonably ought to have known would cause that worker to be humiliated or intimidated"
The use of the phrase "knew or reasonably ought to have known" creates an objective standard for bullying and harassing behaviour. That is, the test of whether any conduct or comment is bullying and harassment includes the following:

- The person knew his or her conduct or comment would cause that worker to be humiliated or intimidated; or
- A reasonable person would have considered the conduct to cause humiliation or intimidation to that worker.

Even if the person alleged to have engaged in bullying and harassment claims to be unaware that the behaviour was humiliating or intimidating, the behaviour may still be bullying and harassment if a reasonable person in the same situation would have known the behaviour was humiliating or intimidating to that worker. The use of this phrase ensures that anyone engaging in offensive behaviour cannot be "willfully blind" to its effects, nor can the behaviour be excused on the basis that the person engaging in the behaviour didn't intend it to humiliate or intimidate the worker.

The use of the phrase "that worker," means that the characteristics of the worker who is the subject of the alleged bullying or harassment need to be taken into account in determining if the conduct or comment would be humiliating or intimidating. Conduct or comments that one worker may accept or tolerate might cause a different worker to be humiliated or intimidated.

What is not bullying and harassment?
The definition of "bullying and harassment" specifically excludes reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

Management and direction of workers or the place of employment include, for example, decisions relating to the following:

- Job duties or the work to be performed;
- Workloads and deadlines;
- Lay offs, transfers, and reorganizations;
- Work instruction, supervision, or feedback;
- Work evaluation;
- Performance management; and
- Discipline, suspension, or termination;

While the employer may exercise its authority to make legitimate management decisions, this does not mean that these decisions can be undertaken in a manner that would constitute bullying or harassment.

Reasonable steps to address the hazard
Employers must take a number of steps to prevent or otherwise minimize workplace bullying and harassment. These steps include
Developing a policy statement with respect to bullying and harassment
The policy statement must clearly state that bullying and harassment will not be tolerated.

Taking steps to prevent or minimize bullying and harassment
The employer must take steps to eliminate or otherwise minimize workplace bullying and harassment. It is not enough for an employer to merely respond to complaints of bullying and harassment if it arises. Where an employer is aware of circumstances that present a risk of bullying or harassment, the employer must consider how best to proactively prevent or minimize that risk and must take action to do so. The specific action the employer takes must be appropriate to the circumstances. These actions may range from providing direction and supervision to affected workers, to providing specific training to workers on managing difficult situations, to imposing workplace arrangements that minimize the risk of bullying and harassment.

Developing and implementing reporting procedures
The employer must implement a mechanism by which bullying and harassment issues are reported to the employer including how, when, and to whom a worker should report incidents or complaints. Included must be procedures for a worker to report if the employer, supervisor, or person acting on behalf of the employer is the alleged bully and harasser.

Reporting procedures should clearly set out the method by which a worker can report a complaint. For example, the procedures should indicate if workers are to report directly to the employer, or to specified designates such as human resources personnel, or to supervisors.

Developing and implementing procedures on how to deal with incidents and complaints
The employer must implement procedures for responding to complaints or incidents of bullying and harassment. The procedures must ensure a reasonable response to the complaint or incident and aim to fully address the incident and ensure that bullying and harassment is prevented or minimized in the future.

Developing and implementing procedures for how the employer will deal with incidents or complaints of workplace bullying and harassment must include the following:

- How and when investigations will be conducted;
- What will be included in the investigation;
- Roles and responsibilities of employers, supervisors, workers and others;
- Follow up to the investigation (description of corrective actions, timeframe, dealing with adverse symptoms, etc.) ; and
- Record-keeping requirements.

Investigations into bullying and harassment should:

- Be undertaken promptly and diligently, and be as thorough as necessary in the circumstances;
- Be fair and impartial, providing both the complainant and the subject of the complaint fairness in evaluating the allegations;
- Be sensitive to the interests of the parties, and maintain confidentiality to the extent possible in the circumstances;
- Be focused on finding facts and evidence, including interviews of the complainant, the subject, and any witnesses;
- Incorporate, where necessary, the need for both the complainant and the subject of the investigation to have assistance during the investigation process; and
- Following the investigation, the employer must promptly take any necessary corrective action.

The extent to which employers are required to involve worker and employer representatives of the joint health and safety committee, as well as whether the employer must provide the joint health and safety committee with the results of a bullying and harassment investigation, is currently being reviewed for further Policy development by WorkSafeBC. Further direction on the obligations of employers in conducting investigations will be communicated by that Policy.

It is important to note that section 21(2)(g) of the Act requires employers to consult and cooperate with joint committees and worker health and safety representatives at the employer's workplace. It is expected that employers will engage in ongoing
consultation with the joint health and safety committee or worker health and safety representative regarding the nature and effectiveness of their bullying and harassment program, and to engage with the joint health and safety committee in the course of the annual review.

**Training and communication**

Every employer must ensure everyone understands their responsibilities in connection with bullying and harassment. This includes providing specific training with regard to the employer's policy and procedures. Workers and supervisors should be trained on the following:

- How to recognize bullying and harassment;
- How workers who experience or witness bullying and harassment should respond;
- Who workers can go to for help and what help will be provided;
- Who the contacts are for reporting incidents;
- Who is responsible for following up on complaints and incidents; and
- Workers who investigate incidents and complaints should receive specific training and instruction that is appropriate for the sensitive and challenging task of responding to bullying and harassment complaints.

**Annual review**

Employers must engage in an annual review of the policy statement, reporting and investigation procedures, and steps taken to prevent or minimize bullying and harassment to ensure their effectiveness.

WorkSafeBC has published additional resources to assist with developing policies and procedures to deal with workplace bullying and harassment, which can be found here.

**Multiple employer workplaces**

Situations involving bullying and harassment are not limited to single employer workplaces. It is important to bear in mind that employers must take steps to prevent or minimize bullying and harassment that might originate from workers of other employers at a multiple employer workplace, as well as ensuring the employer's own workers do not bully or harass the workers of other employers.

Section 24 of the Act requires a prime contractor at a multiple employer workplace to do everything that is reasonably practicable to establish and maintain a system or process that will ensure compliance with health and safety requirements. This requirement would extend to maintaining a system for dealing with complaints of bullying and harassment between workers of different employers and ensuring employers comply with the requirements around bullying and harassment.

**Other rights and remedies**

In addition to the requirements of the Policies under the Act, there may be other avenues that are available to a worker who believes they have been bullied or harassed at the workplace. Whether any of these will be appropriate avenues to pursue will depend on the circumstances of each case.

**Refusal of unsafe work — Section 3.12 of the Regulation**

A worker may refuse to carry out any work process where he or she has “reasonable cause to believe that to do so would create an undue hazard to the health and safety of that person.” In some situations, continuing to work where there is exposure to bullying and harassment may provide reasonable grounds to believe there is an undue hazard to the worker who is subject to the behaviour. An exercise of a worker's right to refuse work in such cases will follow, as with other refusals, the direction and procedures set out in section 3.12 and as further discussed in OHS Guideline G3.12 Refusal of unsafe work.

**Prohibited Action — Sections 47-50 Workers Compensation Act**

There may be cases where a worker who has made a complaint about bullying or harassment believes he or she has also suffered adverse affects with respect to any term or condition of their employment as a consequence of making the complaint. In such instances, a worker may make a complaint of prohibited action to WorkSafeBC. The usual practice and procedures established for prohibited action complaints would apply. Further information is set out in OHS Guideline G-P2-49 Worker complaints of prohibited action and failure to pay wages complaints.
Others
The collective agreement at a workplace may include language which prohibits harassment and provides further measures, such as requiring an investigation and/or filing of a grievance. Also, if bullying and harassment is based on a prohibited ground within the provisions of the Human Rights Code, the worker may also have redress under that legislation. At the extreme, bullying and harassment could involve threats of or actual violence, and would therefore fall within the violence provisions in sections 4.27 through 4.31 of the Regulation, and even into the realm of police investigation and criminal sanction.

ADDITIONAL INFORMATION
The employer is advised to visit the WorkSafeBC website at www.worksafebc.com. Many publications are available on the web site as well as the Occupational Health and Safety Regulation and associated policies and guidelines as well as excerpts and summaries of the Workers Compensation Act.

Additionally, the employer is also advised of the WorkSafeBC prevention information line that is available to answer questions about workplace health and safety, worker and employer responsibilities, and reporting a workplace accident or incident Phone (604)276-3100 or call 1-888-621-7233(621- SAFE) toll free in British Columbia.

Should there be any questions or concerns regarding this report, please contact:

Rick Hobson, AScT
Occupational Safety Officer
WorkSafeBC, Regional Services
Victoria Office
Office: 250-881-3464
FAX: 250-881-3482
rick.hobson@worksafebc.com
REFERENCES

In addition to any orders, or other items, and the information provided in the Inspection Notes section in this Inspection Report, the officer may discuss other health and safety issues with the employer arising out of the inspection. The information below sets out the health and safety requirements discussed with the employer, and unless otherwise noted, violations of these requirements were not observed.

<table>
<thead>
<tr>
<th>Reference</th>
<th>Details Discussed</th>
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<tbody>
<tr>
<td>WCA21(2)(e)</td>
<td>B&amp;H Training</td>
</tr>
<tr>
<td>An employer must provide to the employer's workers the information, instruction, training and supervision necessary to ensure the health and safety of those workers in carrying out their work and to ensure the health and safety of other workers at the workplace.</td>
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</table>
**Employer #** | **Mailing Address** | **Classification Unit #** | **Operating Location**  
--- | --- | --- | ---  
80391 | OCCUPATIONAL HEALTH SAFETY & ENVIRO  
PO BOX 1700 STN CENTRAL  
VICTORIA BC V8W 2Y2 | 765010 | 001  

| Lab Samples Taken | Direct Readings | Results Presented | Sampling Inspection(s) | Workers onsite during Inspection | Notice of Project Number  
--- | --- | --- | --- | --- | ---  
N | N | N |  |  | 0  

**Inspection Report Delivered To** | **Employer Representative Present During Inspection** | **Worker Representative Present During Inspection** | **Labour Organization & Local**  
--- | --- | --- | ---  
Andy Mavretic | Andy Mavretic | Not Applicable | CUPE  

**WorkSafeBC Officer Conducting Inspection**  
Richard Hobson  

| *Inspection Time* | *Travel Time*  
--- | ---  
2.00 hrs | 0.00 hrs  

*The time recorded above reflects the inspection time and travel time associated with this inspection report and includes time spent on pre and post-inspection activities. Additional time may be added for subsequent activity.*

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**Request a Review**

Any employer, worker, owner, supplier, union, or a member of a deceased worker's family directly affected may, within 45 calendar days of the delivery date of this report, in writing, request the Review Division of WorkSafeBC to conduct a review of an order, or the non-issuance of an order, by contacting the Review Division. Employers requiring assistance may contact the Employers' Advisers Office at 1-800-925-2233.

To submit a request online, visit https://www.worksafebc.com/en/review-appeal/submit-request

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WorkSafeBC values your feedback. To obtain that feedback, an external market research provider may be contacting you to complete a survey.