



What is Bullying? What is Misuse of Managerial Authority? What is Discrimination and Harassment?

Let's get it right, what is the difference between:

1. Bullying
2. Misuse of Managerial/Supervisory Authority
3. Harassment and Discrimination?

Find the Right Definition to Make Sure You Are Following the Right Process

The Union and the Employer share a common goal in promoting a workplace free from bullying, misuse of managerial/supervisory authority, harassment and discrimination. However, when these serious matters do arise, the Union and the Employer want to ensure that managers and staff (BCGEU members) have a clear understanding of the different definitions regarding: bullying, misuse of managerial/supervisory authority, harassment and discrimination. The Union and The Employer also share a common interest in ensuring that managers and staff (BCGEU members) understand and follow the appropriate process to resolve these issues when they occur. Each of these definitions can be found in the collective agreement and follow specific and distinct processes. So it is important for you to know which definition an issue falls under so that you can find and follow the correct process (complaint procedure) to resolve the matter.

The Complainant has the Burden Of Proof

It is also important for anyone considering filing a complaint for any of these issues, to know that the person filing the complaint (also known as "***the complainant***") has "*the burden of proof*" and must provide sufficient evidence (witnesses, emails, letters etc.) to support that the complaint meets with the appropriate definition. The person or persons the complainant names as allegedly bullying, harassing or discriminating against them is known as: "***the respondent***" or "*the respondents*".

Right to Union Representation

There has been some misunderstanding about Union Representation for these processes that the Union and the Employer would like to rectify: Both the "Complainant" and the "Respondent" (if the Respondent is a Union member) have the right to Union representation throughout all of these complaint procedures. Of course they would have different stewards to ensure fair representation. Potential complaints can go to a steward for advice prior to talking to their supervisor about their issue if they so choose. It is up to each potential complainant who they are most comfortable discussing their matter with. Complainants do not have to go to a supervisor prior to consulting with their Union steward for any of these issues. This has been the source of some misunderstandings. Stewards are trained on representing both complainants and respondents. **Please note that the procedures detailed in the collective agreement for all of these issues are designed to ensure complaints are addressed and resolved informally at the first step, if at all possible.**

Definitions and Complaint Procedures in the Collective Agreement

1. HUMAN RIGHTS CODE-HARASSMENT AND DISCRIMINATION

- **DEFINITION:**

- **Article 1.7 No Discrimination under Prohibited Grounds:** *"Employees have the right to employment without discrimination because of: race colour, ancestry, place of origin, religion, family status, marital status, physical disability, mental disability, , sex, age, sexual orientation, political beliefs, and criminal or summary offense unrelated to employment."*
- *"Prohibited conduct may be verbal, non-verbal, physical , deliberate or unintended, unsolicited or unwelcome as determined by a reasonable person. It may be one incident or a series of incidents depending on the context."*
- **Article 1.8 Sexual Harassment:** *"is one form of discrimination and is defined as any unwelcome comment or conduct of a sexual nature that may detrimentally affect the work environment or lead to adverse job related consequences for the victim of the harassment. Prohibited conduct may be verbal, non-verbal, physical, deliberate or unintended, unsolicited or unwelcome, as determined by a reasonable person. "*

- **COMPLAINT PROCEDURE TO FOLLOW: Article 1.9-** details how to file/respond to a complaint

- **WHO CAN BE THE RESPONDENT?:** coworkers, supervisors or managers

2. BULLYING IN THE WORKPLACE

- **DEFINITION:**

- **Memorandum of Understanding (MOU) #13** *"Employees have the right to work in an environment free from bullying and the parties agree that there is a need to take responsible action to prevent bullying and whenever they become aware of such behaviour, put a stop to it. Bullying refers to vexatious behaviour taking the form of repeated hostile conduct, comments, actions or gestures that affects an employee's dignity and that results in a harmful work environment; or a single incident of such behaviour that has a lasting harmful effect on an employee may also constitute bullying."*

- **COMPLAINT PROCEDURE TO FOLLOW: MOU #13-** details how to file/respond to a complaint

- **WHO CAN BE THE RESPONDENT?:** co-worker(s) /peers only. The use of "peers" in MOU #13 means that a supervisor cannot file a complaint against a subordinate.

3. MISUSE OF MANAGERIAL/SUPERVISORY AUTHORITY

- **DEFINITION:**

- **Article 32.15:** *"Misuse of Managerial/Supervisory Authority takes place when a person who supervises or is in a position of authority exercises that authority in a manner which serves no legitimate work purpose and which ought reasonably be known to be inappropriate.*
- *Misuse of Managerial/Supervisory Authority does not include action occasioned through the exercise, in good faith, of the Employer's managerial/supervisory rights and responsibilities. Nor does it include a single incident of a minor nature where the harm, by any objective standard is minimal."*

- **COMPLAINT PROCEDURE TO FOLLOW: Article 32.15-** details how to file/respond to a complaint

- **WHO CAN BE THE RESPONDENT?:** supervisors or managers only

No Discrimination for Union Activity

Article 2.5: No Discrimination for Union Activity:

"The Employer and the Union agree there shall be no discrimination , interference, restriction, or coercion exercised or practised with respect to any employee for reason of membership or activity in the Union."

This includes filing a grievance or complaint under the collective agreement through the Union.

Expectations of Complainants

Complainants should not believe that if they file a complaint and the evidence supports a finding of their allegations that the respondent will be terminated or transferred from the worksite. The legal test of progressive discipline applies to all respondents regardless of whether they are members of the Union or not.