



WORKPLACE HARASSMENT

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Procedures

1.0 GENERAL

In accordance with the Policy, these Procedures provide a mechanism for dealing with complaints of harassment and objectionable behavior occurring in the working and learning environment.

Nothing in these Procedures denies or limits access to other avenues of redress available under the law or through the filing of a grievance or through progressive discipline.

In such a case, this process shall cease until the parties and their respective representatives have met with a representative from Human Resources to determine which dispute resolution process will proceed and which one(s) will be held in abeyance pending completion of the chosen process.

2.0 DEFINITIONS

“Employee” and “other users”: Under these Procedures, the word “employee” includes all persons employed by the Board. The words “other users” include all persons, who are neither students nor employees while on Board premises or attending Board or school programs/functions at other premises or in a business/social community relationship with the Board.

Consequently, this Procedure applies to and covers all staff members, parents, volunteers, permit holders, contractors, and employees of organizations not related to the Board but who nevertheless work on or are invited onto Board premises.

Workplace harassment: Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome contrary to any ground prescribed by the Ontario *Human Right Code*. Harassment can include sexual harassment as defined pursuant to the *Code*.

Workplace sexual harassment means,

(a) 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, or

(b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Workplace harassment can be directed at a teacher, principal, support staff or any other employee or officer acting on behalf of the Board.

Workplace harassment does not include decisions or actions related to an individual's employment: including but not limited to, a decision to change duties, discipline the individual or terminate the individual's employment.

Objectionable Behavior: Objectionable Behavior is often but not always, persistent, ongoing, vexatious conduct or communications in any form, of attitudes, beliefs or actions towards an individual in the

workplace which might reasonably be known to be unwelcome. A single serious act or expression can constitute behavior.

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

3.0 APPLICATION

This policy applies to all members of the Board community, including but not limited to, trustees, students, employees, visitors such as parents and community members, volunteers, permit holders, contractors, and employees of other organizations who work on or are invited onto Board property.

All members of the Board community are accountable for complying with this policy, and maintaining a harassment free environment.

Other related policies of the Board which support this policy are, for example:

- 2.1.6 Student Code of Conduct
- 2.1.7 Violence Prevention
- 2.1.23 Managing Violent and Aggressive Student Behavior
- 2.1.26 Bullying Prevention
- 2.1.10 Police & School Protocol

4.0 DUTIES AND RESPONSIBILITIES

Our educational community is a place that promotes responsibility, respect, civility and academic excellence in a safe learning and teaching environment. All persons in our learning/working environment will:

- respect differences in people, their ideas and opinions;
- treat one another with dignity and respect at all times, and especially when there is disagreement;
- respect the rights of others;
- show proper care and regard for Board property and for property of others;
- demonstrate honesty and integrity; and
- respect the need of others to work in an environment of learning and teaching.

All those who are covered by this Procedure have a right to report harassment or objectionable behavior and are entitled to have access to the dispute resolution processes.

Every attempt should be made to resolve matters through an informal resolution.

5.0 INFORMAL RESOLUTION STEPS

The first step is to inform the individual that his/her behavior is unwelcome and must stop immediately. Many disputes can be resolved quickly and effectively using this approach.

In order to stop such conduct, the supervisory or managerial personnel notified must become involved to address and attempt to resolve disputes in a timely fashion.

In the event the complaint involves a worker's or other person's supervisor, or a management member, the complainant can report the alleged occurrence to the Superintendent of Human Resources directly or contact their Health and Safety Worker Representative at their site to initiate the complaint.

If the Supervisor, Manager or Superintendent of Human Resources are implicated in the alleged complaint, the Health and Safety Worker Representative may contact the Board Health & Safety Coordinator, who will contact a 3rd Party Independent Investigator to conduct the investigation.

Individuals who wish to file a formal complaint must complete and sign the **WORKPLACE HARASSMENT - FORMAL COMPLAINT FORM (see appendix B)**

All complaints must be investigated forthwith upon receipt of a written complaint form, and or a verbal notification from a worker or to their supervisor.

5.1 Who May Initiate a Complaint

All those individuals who are included under section 3.0 Application have access to complaint procedures. Individuals who believe that they have been subjected to such conduct may report the harassment or objectionable behavior.

In addition, those who have witnessed harassment or objectionable behavior directly, or have reasonable grounds to suspect that it is occurring, may initiate a report.

Anonymous reports will not be entertained for dispute resolution under these Procedures.

Third party reported disclosures will only go forward (to the formal stage) with the victim's consent.

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

5.2 Timelines for Initiating a Complaint

All reports filed will be investigated forthwith, **subsequent to the** instance of the alleged harassment. This will be undertaken by the Human Resources Department.

A delay in completing the report may be considered by consulting the principal or appropriate supervisor, subject to any extenuating circumstances an Alternate Investigation by a 3rd Party may be necessary if the report cannot be undertaken, within a reasonable period of time.

A Third Party Independent Investigator may be a Principal, a Human Resource Professional or other Professional person, from within our board, or another board, or other outside Agency with no interest or conflict, with or in the outcome of the investigation, who would be deemed capable of conducting an impartial investigation and filing a report of the results.

The Results of the investigation will be delivered to the Board's Human Resources Department to distribute applicable sections to the Complainant, Supervisor, Superintendent, Respondent as required for DSB Ontario North East investigations.

All investigations and related reports will be held on file as per 5.3 Confidentiality and 5.4 Records Retention.

5.3 Confidentiality

It is the duty of the supervisory and managerial personnel to maintain confidentiality in the complaint process.

All complainants, respondents and other persons involved with the complaint processes under these Procedures will ensure that all matters remain confidential.

Witnesses should be informed that supervisory and managerial personnel, in obtaining a statement, will maintain said statement in confidence, subject to their ability to conduct a full and thorough investigation.

Notwithstanding the above, procedural fairness requires that the respondent to a complaint be apprised of the nature of the complaint and by whom it has been made so that they have an opportunity to speak to the charges.

The Board may be required to provide information obtained during an investigation to an outside agency that has the right to require information otherwise protected by the ***Municipal Freedom of Information and Protection of Privacy Act***.

5.4 Records Retention

All correspondence and other documents generated under these Procedures must, subject to the *Municipal Freedom of Information and Protection of Privacy Act*, be marked "PRIVATE AND CONFIDENTIAL" and be stored in a locked and secure file in the Human Resources office.

5.5 Misuse of the Complaint Procedures

If there is a determination on a balance of probabilities that a complaint has been filed in bad faith, the complaint process may discontinue and disciplinary action may occur.

5.6 Reprisals

Reprisals against individuals because they have reported a complaint are strictly forbidden. Alleged reprisals shall be investigated as formal complaints and, if substantiated, are subject to the same consequences as complaints of workplace harassment or objectionable behavior.

5.7 Informal Resolution

Supervisory and managerial personnel may become aware of harassment in the working or learning environment in different ways. They may observe harassment or objectionable behavior directly or receive a report from the individual affected. The Policy and Procedures regarding Workplace Harassment require that all those who are covered by the Policy report immediately alleged occurrences. Consequently, supervisory and managerial personnel may receive reports from third parties.

It is important that supervisory and managerial personnel pay attention to symptoms arising out of possible harassment or objectionable behavior such as reduced productivity, changes in behavior, absenteeism, and requests for transfers or rumors. Without assistance, the targets may be embarrassed or reluctant to report a situation.

A speedy resolution of a complaint can prevent escalation and further negative consequences while promoting restoration of a healthy learning and working environment.

Informal Resolution is a procedure that provides an opportunity for parties to resolve a dispute mutually in a respectful manner. The Board encourages supervisory and managerial personnel, as well as union/federation representatives, to first attempt Informal Resolution as a means of resolving issues.

Supervisory or managerial personnel, as well as union/federation representatives may facilitate an informal resolution by:

- suggesting that the complainant confront the problem by making it clear to the individual alleged to have engaged in harassing behavior that the behavior is not acceptable and by obtaining a commitment that the behavior will stop;
- informing the individual of the complainant's concern regarding the alleged harassing behavior and the Board's expectation for appropriate behavior, (b) providing a copy of the Board's **Policy 1.2.1 and Procedures on Workplace Harassment** and/or other relevant Board policies, and (c) obtaining a commitment that the behavior will stop;
- following up with the complainant to ensure that the behavior has stopped.

In cases where an informal plan of action is implemented, supervisory and managerial personnel shall follow up by monitoring the situation, holding, if necessary, subsequent meetings with the parties and taking further steps to ensure that the harassing behavior has stopped.

Where disputes are resolved informally, there will be no formal reports about such disputes. Every effort will be made to protect the privacy of individuals.

For informal complaints, where the parties are members of a union, federation, association or the school community, a resolution facilitated by the appropriate representative(s) is recommended, if acceptable to the parties.

6.0 FORMAL COMPLAINT PROCEDURES AND INVESTIGATIONS

6.1 Threshold Assessments

All formal reports filed under this Policy shall be subject to an immediate threshold assessment to determine whether the alleged conduct would, if proven, meet the definition of workplace harassment.

If the Investigator, following this threshold assessment, determines that the report filed:

- would not, if true, meet the definition of harassment, objectionable behavior, workplace harassment; or
- does not provide sufficient details of the alleged behavior (provided the complainant is given notice that insufficient details have been provided and given reasonable time to provide sufficient details); or,
- is vexatious, frivolous or trivial, has not been made in good faith or would, if investigated, constitute an abuse of the Policy;

then the complainant shall be so advised verbally and no further action shall be taken under this Policy, but a record of the complaint and details will be maintained.

6.2 Records Retention

All correspondence and other documents generated under these Procedures must, subject to the *Municipal Freedom of Information and Protection of Privacy Act*, be marked "PRIVATE AND CONFIDENTIAL" and be stored in a locked and secure file in the Human Resources office.

6.2.1 Record Keeping

The employer will keep records of all complaints or incidents of workplace harassment including:

- a copy of the complaint or details about the incident;
- a record of the investigation including notes;
- a copy of witness statements, if taken;
- a copy of the investigation report, if any;
- a copy of the results of the investigation that were provided to the worker who reported workplace harassment and the alleged harasser; and
- a copy of any corrective action taken to address the complaint or incident of workplace harassment.

The documents associated with a workplace harassment complaint, incident and/or investigation must not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law.

Records will be maintained of all reported harassment, from the conclusion of the investigations, regardless of outcomes.

6.3 Misuse of the Complaint Procedures

If there is a determination on a balance of probabilities that a complaint has been filed in bad faith, the complaint process may discontinue and disciplinary action may occur.

Where allegations relate to discrimination on the basis of a ground prohibited by the Ontario *Human Rights Code*, they shall be addressed using the appropriate Board policy.

6.4 Initiating a Complaint

Employee complainants should contact their appropriate supervisor, a colleague, union, federation or association representative. If an employee requires assistance in completing the *Workplace Harassment - Formal Complaint Form (Appendix B)*, another individual such as a colleague, union, federation or association representative should make the complaint on the employee's behalf. If the supervisor is the party alleged to be responsible for the harassment or alleged to condone the behavior, the complaint should be reported to the appropriate Superintendent or if it involves a Superintendent then to the Director of Education.

Employee respondents may wish to contact the appropriate supervisor, a colleague, union, federation or association representative. For assistance and representation throughout the complaint process, both employee complainants and employee respondents are referred to the list in Section 6.6 below.

Other user complainants should report the complaint or their need for assistance in reporting to the appropriate supervisory and managerial personnel at the Board. Other user respondents may also want to contact other appropriate personnel; for example, an employee of another organization may want to seek assistance and support from within that organization. For assistance and representation throughout the complaint process, both other user complainants and other user respondents are referred to the suggested support people listed in Section 6.6 below.

The rights of students to a respectful working and learning environment, free from harassment and objectionable behavior, are dealt with under other appropriate policies, legislation or regulations including, but not limited to, Codes of Behavior, *Safe Schools Act* (now Section XIII of the *Education Act*) and Professional Codes of Conduct. Students should contact their Vice Principal, Principal, or, where appropriate, their Superintendent of Schools, for clarification on the process to be followed.

Supervisory and managerial personnel who are contacted shall follow the procedures set out in section 6.7 - Procedures for Resolving a Complaint.

6.5 Respondents to a Complaint

Individuals who are named as respondents in a complaint have a right to know in a timely manner that they are the subject of a complaint, who the complainant is, what the allegations are and what approach to a resolution is being considered. In particular, a respondent has a right to know the specifics of an allegation, including times, dates and alleged conduct.

Respondents will be given a copy of the complaint and given ample/reasonable time to prepare a full and complete response to the allegations.

6.6 Assistance for Complainants, Respondents and Witnesses

Prior to initiating any complaint and throughout the complaint process, complainants have a right to assistance and support.

Individuals who are named as respondents in a complaint, as well as witnesses, also have a right to assistance and support throughout the complaint process.

The following people may provide support:

- parent/guardian/other caregiver
- trained resource person
- professional support staff
- union/federation/association representative
- employee or colleague
- translator/interpreter (if necessary)

6.7 Procedures for Resolving a Complaint

In all cases, supervisory and managerial personnel have a duty to respond to and initiate action to resolve any alleged or suspected situations involving harassment forthwith.

6.8 Formal Investigation, Resolution and Decisions

Formal complaints require an investigation of the complaint allegations. Investigators will most often be the supervisory staff of the complainant and/or respondent. Where the complainant and the respondent have different reporting structures, supervisory and managerial personnel involved will determine who the appropriate person is to take responsibility for the investigation.

In a formal investigation, supervisory or managerial personnel who conduct the investigation shall ensure that the following steps are taken, and documented as soon as possible:

1. take appropriate measures to ensure the safety of the complainant;
2. notify the complainant(s), the respondent(s) and witness(es) that they are entitled to support and assistance throughout the process;
3. ensure that the respondent(s) have a copy of the complaint;

4. interview the complainant(s) and/or the third party reporting the complaint;
5. inform the respondent(s) of the allegations and provide an opportunity for response;
6. interview the respondent(s);
7. interview witness(es);
8. come to conclusions about whether a specific incident did or did not occur based on a balance of probabilities; (the question of whether behavior is objectionable will be assessed using objective standards)
9. provide written summary of the findings and conclusions to the complainant and to the respondent and give them an opportunity to respond to same; and
10. take appropriate action(s) to resolve the situation.

If the respondent declines to participate in the formal investigative process, the investigation shall proceed. The respondent should be encouraged to participate in the interest of a balanced and fair process.

6.9 Standard of Proof

The standard of proof to be applied is the balance of probabilities.

6.10 Outcomes in Formal Investigations

In the event a complaint is not substantiated, no further action will be taken, subject to the section on maintaining records. However, if there is a need to restore a positive learning or working environment or if the complainant and/or respondent require counselling, appropriate steps shall be taken to meet such needs.

The Investigator shall inform in writing the complainant of the decision to halt the investigation, immediately when this decision has been determined.

Copies of this notice will be retained with all records as per the applicable sections of 6.2 and 6.2.1.

Follow-up possibilities:

- counselling for the parties;
- application of strategies to restore a positive learning/working environment;
- mediation;
- specific training for the complainant or respondent;
- workshops for the staff and/or others) in the school/workplace regarding their rights and responsibilities (see Appendix A);
- permanent separation of respondent and complainant from each other;
- restorative measures.

6.11 Disciplinary Actions

Employee Respondents

The appropriate supervisor or manager shall impose discipline as appropriate and consistent with the circumstances. The principles of progressive discipline will be applied in dealing with disciplinary actions in accordance with the Progressive Discipline Procedure.

Other User Respondents

Actions must be determined as appropriate for the individual situation and may include such responses as a letter of disapproval and warning, a revoking of permits or contracts, an issuing of a trespass warning, or other remedies as provided by the common law and/or the appropriate legislation. The involvement of the appropriate Superintendent is recommended in these cases.

6.12 Mediated Resolution

Mediation involves an unbiased third party acting as a facilitator in direct communication between the parties who voluntarily agree to enter into this process. It is an opportunity to resolve disputes in a respectful manner. It provides the opportunity to generate a variety of options for resolution and contributes to restoring the working relationship between the parties.

Where there is already a formal complaint being investigated under these procedures, at any time during the investigation, the parties may agree to hold the investigation in abeyance and attempt to achieve a mediated resolution. Mediation will only occur if the employer agrees to use it as an option in resolving a particular dispute.

Mediation is appropriate when all parties agree that a mutually agreeable solution is achievable and desirable. The investigator will request approval to mediate.

Meetings required for mediation sessions shall be scheduled as soon as possible and, where practical, in a time and place convenient for the complainant, the respondent and the mediator.

When matters are resolved through mediation, the complainant and the respondent will sign a memorandum of agreement outlining the terms to which they have agreed. Supervisory and managerial personnel shall ensure that the terms that the parties have agreed to have been met.

Mediation is voluntary and the complainant or the respondent may choose to withdraw at any time.

6.13 Review of Decision

In the event a complainant or respondent to a formal complaint has one or both of the specific concerns listed below, a request may be made to the Director or designate to convene a Review within 10 business days of the Complainant and or Respondent receiving a report of the investigation. A Reviewer will be appointed by the Director or designate.

The grounds for review are:

- i. the investigators fail to comply with these Procedures;
- ii. new evidence becomes known after the final decision but before the expiry of the ten working days limitation period for requesting a review.

No review of the final decision will be undertaken with regard to the claim that the conclusions drawn by the investigator(s) based on findings of fact were incorrect.

The Reviewer will report his/her findings to the Director or designate, who will affirm or amend the final decision, or require that a new investigation be undertaken.

7.0 POLICY POSTING

The Workplace Harassment Policy shall be in written form and available on the Board website.

8.0 POLICY REVIEW

The Workplace Harassment Policy must be reviewed as often as is necessary, but at least annually. This review should be conducted by the Human Resource Manager and in consultation with the Health & Safety District Coordinating Committee

9.0 INFORMATION AND INSTRUCTION

The Board shall provide employees with information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace harassment.

Training in Workplace Harassment Policy and Procedures should take place at the time of hire, during new worker inductions, and as frequently as required but at least at least annually.

Training should be face to face except for reviews annually which can be forwarded electronically, and a review record kept on the Board's Training Website, Safety Hub or the Boards SDS System Records.

Appendices

Appendix A: Rights and Responsibilities

Appendix B: Workplace Harassment – Formal Complaint Form

References

Occupational Health & Safety Act

Policy 2.1.6 – Student Code of Conduct

Policy 2.1.7 – Violence Prevention

Policy 2.1.10 – Police & School Protocol

Policy 2.1.23 – Managing Violent and Aggressive Student Behaviour

Policy 2.1.26 – Bullying Prevention

Appendix A

RESPECTFUL WORKING AND LEARNING ENVIRONMENT
HARASSMENT PREVENTION AND RESOLUTION

RIGHTS AND RESPONSIBILITIES

Everyone has the right to work and learn in an environment that is free of unwelcome or intimidating behavior that could create an unsafe and /or unhealthy environment and could interfere with job performance and ability to learn.

RESPONSIBILITIES OF ALL PERSONS IN BOARD LEARNING/WORKING ENVIRONMENTS

It is the responsibility of every person to create and contribute to a climate of understanding and mutual respect for the rights and dignity of each individual by:

- showing courtesy and self-discipline in actions and words;
- seeking informal problem solving of issues;
- respecting rules, regulations and practices that are in place which provide for safe and secure learning and working environments;
- demonstrating honesty, integrity and behaviors that are representative of a positive and supportive atmosphere;
- showing proper care and regard for Board property and for the property of others.

RESPONSIBILITIES OF THE BOARD

- It is the responsibility of the District School Board Ontario to recognize the dignity and worth of every person and to provide for fairness and equal opportunities without discrimination
- It is a commitment of the District School Board Ontario North East to work towards the elimination of objectionable behavior in our schools and workplaces.
- It is the duty of the District School Board Ontario North East to maintain an environment that is safe, nurturing and positive for all persons served by it.

By knowing your rights and responsibilities, you can stop WORKPLACE HARASSMENT.

Anyone who feels that they are being subjected to objectionable behavior has the right and responsibility to tell the individual concerned that the behavior is offensive, unwelcome, and must cease. They also have the right to report the behavior to someone in a position of authority who can facilitate resolution of the matter.

If you are experiencing harassing behavior, contact your Principal, Manager/Supervisor, Superintendent of Schools, your site Health & Safety Representative, or the Board Health & Safety Coordinator.

Appendix B

WORKPLACE HARASSMENT - FORMAL COMPLAINT FORM

PRIVATE AND CONFIDENTIAL

Name(s) of Complainant(s):

School/Department/Worksite:

Complainant(s): _____ Employee, Job Title _____ Other _____

Description of Alleged ***Harassing Behaviour and Assistance Required*** (Please use additional pages if necessary).

Description of Assistance Offered

Name of Respondent(s) (Individual(s) who is (are) the subject of the complaint):

School/Department/Worksite:

Respondent(s): _____ Employee, Job Title _____ Other _____

Date(s) of incident(s) or Time Frame: _____

Date complainant informed respondent that the behavior was unwelcome:

(N.B. When the complainant and respondent are both teachers, the complainant must meet the reporting obligations of Section 18(1) (b) of the Regulation Made Under the Teaching Profession Act.)

Date of attempt at informal resolution: _____

Has the complaint been reported previously? Yes No

If Yes, to whom, and what actions were taken? (Please use additional pages if necessary).

Complainant(s) Signature(s): _____

Date: _____

Date completed complaint form received _____

Receiving Party

Name _____ Title/Position _____

Receiving Party: If other than Human Resources, identify the party the form was forwarded to, the date completed, and method of notification.

Forwarded Date _____ Title /Position _____

Mail _____ Email _____ Phone/Message _____

The information contained in this form is confidential and every reasonable step will be taken to maintain confidentiality in accordance with the provisions of the ***Municipal Freedom of Information and Protection of Privacy Act***. This form and any attachments will be copied to the respondent(s) named above, in accordance with the Formal Complaints Process.

INSTRUCTIONS FOR HANDLING THIS FORM

Please place this form in a sealed envelope marked “**PRIVATE AND CONFIDENTIAL**” and send it to:

The Superintendent of Human Resources (**Human Resources Office**),
District School Board Ontario North East,
P.O. Box 1020, Timmins ON, P4N 7H7.

Alternately, completed form may be given/sent to:

- your Principal,
- your Manager/Supervisor or,
- your Superintendent of Schools,
- your site Health & Safety Rep.,
- or the Health & Safety Coordinator, depending on the circumstances