



Procedure Section: **Personnel and Employee Matters**

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Procedure Name: **Respectful Working and Learning Environment: Conflict Prevention and Resolution**

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General

In accordance with this Policy, these Procedures provide a mechanism for dealing with complaints of objectionable behaviour 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 the Human Resources Manager or Superintendent of Education to determine which dispute resolution process will proceed and which one(s) will be held in abeyance pending completion of the chosen process.

1. Definitions

Under these Procedures, the word '**employee**' includes all persons employed by the Keewatin-Patricia District School Board (KPDSB). The words '**other users**' include all persons who are neither students nor employees while on KPDSB premises or attending KPDSB or school programs or functions at other premises or in a business or social community relationship with the KPDSB.

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

2. Who May Initiate a Complaint

All those individuals who are included under the *section Scope*, found in KPDSB Policy 708 – Respectful Working and Learning Environment: Conflict Prevention and Resolution, have access to complaint procedures. Individuals who believe that they have been subjected to objectionable behaviour may report the objectionable behaviour. In addition, those who have witnessed objectionable behaviour directly, or have reasonable grounds to suspect that objectionable behaviour is occurring, may initiate a report. Anonymous reports will not be entertained for dispute resolution under these Procedures. Third party disclosures will only go forward (to the formal stage) with the victim's consent.

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3. Timelines for Initiating a Complaint

All reports must be filed within six (6) months of the most recent instance of alleged objectionable behaviour. A report outside this timeframe may be considered by consulting the Principal or appropriate supervisor. Formal complaints outside this timeframe may be considered by consulting the Human Resources Manager or Superintendent of Education.

4. 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 such 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 is 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 KPDSB 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. Records

All correspondence and other documents generated under these Procedures must, subject to the Municipal Freedom of Information Protection and Privacy Act, be marked as "Private and Confidential" and be stored in a locked and secure file in the Human Resources Department.

6. 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 will be discontinued.

7. Reprisals

Reprisals against individuals because they have reported a complaint are strictly forbidden. Alleged reprisals shall be investigated as formal complaints and if

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substantiated are subject to the same consequences as complaints of objectionable behaviour.

8. Informing

A Union member making a complaint should contact their Union representative to review their professional obligations.

Informal Resolution

Supervisory and managerial personnel may become aware of objectionable behaviour in the working or learning environment in different ways. They may observe objectionable behaviour directly or receive a report from the individual affected. The Policy and Procedures on Respectful Working and Learning Environment: Conflict Prevention and Resolution require that all those who are covered by the Policy immediately report alleged occurrences of objectionable behaviour. 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 objectionable behaviour such as reduced productivity, changes in behaviour, absenteeism, requests for transfers, or rumours. Without assistance, the targets of objectionable behaviour may be embarrassed or reluctant to report a situation.

A speedy resolution of a complaint can prevent escalation and further negative consequences while promoting the 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 KPDSB encourages supervisory and managerial personnel, as well as Union/federation representatives, to first attempt informal resolution as a means of resolving situations.

Supervisory and 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 objectionable behaviour that the behaviour is not acceptable and by obtaining a commitment that the behaviour will stop;

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- a) informing the individual of the complainant's concern(s) regarding the alleged objectionable behaviour and the KPDSB's expectation for appropriate behaviour, b) providing a copy of the KPDSB's Policy and Procedures 708 – Respectful Working and Learning Environment: Conflict Prevention and Resolution and/or other relevant KPDSB policies and procedures, and c) obtaining a commitment that the behaviour will stop; and
- following up with the complainant to ensure that the behaviour 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 objectionable behaviour 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.

Formal Complaint Procedures

1. Initiating a Complaint

Employee complainants should contact their appropriate supervisory, colleague, Union, federation, or association representative. If an employee requires assistance in completing the 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 objectionable behaviour, or alleged to condone the objectionable behaviour, the complaint should be reported to the appropriate manager above the supervisor. Employee respondents may wish to contact the appropriate supervisor, 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 3 below.

Other user complainants should report the complaint to the appropriate supervisory and managerial personnel at the KPDSB or if they require assistance in reporting.

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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 3* below.

The rights of students to a respectful working and learning environment, free from objectionable behaviour, are dealt with under other appropriate policies, legislation, or regulations including but not limited to the Education Act and other KPDSB policies and procedures including but not limited to the Code of Conduct and Safe and Supportive Schools policies.

Supervisory and managerial personnel who are contacted shall follow the procedures set out in *section 5 – Procedures for Resolving a Complaint*.

2. 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 time to prepare a full and complete response to the allegations.

3. 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 their witnesses, also have a right to assistance and support throughout the complaint process. The following people may provide support:

- Parent/guardian or other caregiver(s);
- Trained resource person;
- Professional support staff;
- Employee or colleague;
- Union/federation/association representative; or
- Translator/interpreter (if necessary).

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4. Threshold Assessment

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

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

- Would not, if true, meet the definition of objectionable behaviour;
- Does not provide sufficient details of the alleged objectionable behaviour, provided the complainant is given notice that insufficient details have been provided and given reasonable time to provide sufficient details; and/or
- Is vexatious, frivolous, trivial, has not been made in good faith, or would (if investigated) constitute an abuse of the Procedure.

The complainant shall be so advised, and no further action shall be taken under this Procedure.

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 KPDSB policy (i.e., KPDSB Policy 709 – Workplace Harassment).

5. Procedures for Resolving a Complaint

In all cases, supervisory and managerial personnel have a duty to respond to and take action to resolve any alleged or suspected situations involving objectionable behaviour.

a) Formal Investigation and Resolution

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. The Chair of the Board will investigate allegations of inappropriate Trustee behaviour.

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

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- i) take appropriate measures to ensure the safety of the complainant(s);
- ii) notify the complainant(s), the respondent(s), and witness(es) that they are entitled to support and assistance throughout the process
- iii) ensure that the respondent(s) has a copy of the complaint;
- iv) interview the complainant(s) and/or the third party reporting the complaint;
- v) inform the respondent(s) of the allegations and provide an opportunity for response;
- vi) interview the respondent(s);
- vii) interview the witness(es);
- viii) come to conclusions about whether a specific incident did or did not occur based on a balance of probabilities (the question of whether the behaviour is objectionable will be assessed using objective standards);
- ix) provide a written summary of the findings and conclusions to the complainant(s) and to the respondent(s) and give them an opportunity to respond to the same; and
- x) 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.

b) Standard of Proof

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

c) Outcomes in Formal Investigations

In the event that 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.

Follow up possibilities:

- Counselling for the parties;
- Application of strategies to restore a positive learning or working environment;
- Mediation;
- Specific training for the complainant or respondent; and/or
- Workshops for the staff and/or others in the school or workplace regarding their rights and responsibilities (see *Appendix A*).

d) Disciplinary Actions

i) 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 action under this policy. These may include the following possibilities:

- verbal warning;
- written reprimand;
- suspension with pay;
- suspension without pay; and/or
- dismissal from employment with the KPDSB.

ii) 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. Where the Chair of the Board has determined inappropriate Trustee behaviour, the following actions may be taken by the KPDSB:

- censure of the member;
- barring the member from attending all, or part, of a meeting of the Board or a meeting of a Committee of the Board; and/or
- barring the member from sitting on one or more committees of the Board for a period of time specified by the KPDSB.

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

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a trained mediator from the KPDSB's list of approved mediators when the parties have expressed an interest in a mediated resolution. In cases where mediation is sought, the department of the KPDSB responsible for Human Resources management shall provide trained mediators who are acceptable to both parties.

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.

f) Review

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 of Education, or Designate, to convene a review. A Reviewer will be appointed by the Director of Education or Designate.

The grounds for review are:

- the investigator is alleged to have had a conflict of interest and the Reviewer finds grounds which support the allegation;
- the investigators fail to comply with these Procedures; and/or
- new evidence becomes known after the final decision but before the expiry of the ten (10) 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 their findings to the Director of Education, or Designate, who will affirm or amend the final decision, or require that a new investigation be undertaken.

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Appendix A

Rights and Responsibilities

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

Responsibilities of All Persons in KPDSB Learning and 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 behaviours that are representative of a positive and supportive atmosphere; and
- showing proper care and regard for KPDSB property and for the property of others.

Responsibilities of the KPDSB

- it is the responsibility of the KPDSB 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 KPDSB to work towards the elimination of objectionable behaviour in its schools and workplaces; and
- it is the duty of the KPDSB to maintain an environment that is safe, nurturing, and positive for all persons served by it.

By knowing the rights and responsibilities, each person can stop objectionable behaviour. Anyone who feels that they are being subjected to objectionable behaviour has the right and responsibility to tell the individual concerned that the behaviour is offensive, unwelcome, and must cease. They also have the right to report the objectionable behaviour to personnel in a position of authority who can facilitate a resolution of the matter.

If you are experiencing objectionable behaviour, contact your Principal, Manager/Supervisor, or Supervisory Officer, and your Union Representative.

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Appendix B

PRIVATE AND CONFIDENTIAL

Objectionable Behaviour – Formal Complaint Form

Name(s) of Complainant(s):

School/Department/Worksite:

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

Description of Alleged Objectionable Behaviour: (*please use additional pages if necessary*)

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) or Timeframe(s) of Incident:

Date Complainant Informed Respondent that the Behaviour was Unwelcome:

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:

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



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***Appendix B – Objectionable Behaviour
Formal Complaint Form - Reverse Side***

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 KDPSB Formal Complaint Process.

Instructions for Handling this Form

Please place this form in a sealed envelope marked “**PRIVATE AND CONFIDENTIAL**” and send it to the attention of the Human Resources Manager.

A Union Member making a complaint should contact their Union Representative to review their professional obligations.