

PROCEDURE

Workplace Harassment

Complaints

All those who are covered by this Policy have a right to complain about harassment and are entitled to have access to the complaint procedures. Every attempt should be made to resolve matters through an informal resolution. The first step is to inform the individual that their behaviour is inappropriate and must stop immediately. Many complaints can be resolved quickly and effectively using this approach. In order to stop harassment, supervisory and managerial personnel must address and attempt to resolve complaints under this Policy and Procedure document in a timely fashion.

1. General

In accordance with this Policy, these Procedures provide a mechanism for dealing with workplace harassment complaints. Nothing in these Procedures denies or limits access to other avenues of redress available under the law or through the filing of a grievance. In such a case, this process and these Procedures shall cease.

2. Who May Initiate a Complaint

All those individuals who are included under the *section Scope* have access to complaint procedures. Individuals who believe that they are targets of harassment may initiate a complaint. In addition, those who have witnessed harassment directly, have received reports of harassment incidents, or have reasonable grounds to suspect that harassment is occurring, may initiate a complaint. Third party disclosures should only go forward (to the formal stage) with the victim's consent.

3. Timelines for Initiating a Complaint

All complaints must be reported within ten (10) months of the most recent alleged harassing behaviour. A complaint outside this timeframe may be considered by consulting the Principal, appropriate supervisory, or supervisory officer.

4. Confidentiality

It is the duty of the supervisory and managerial personnel to maintain strict 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 strict confidence subject to their ability to conduct a full and thorough investigation.

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

Informal Resolution

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 harasser that the behaviour is not acceptable and by obtaining a commitment that the behaviour will stop;
- a) informing the alleged harasser of the concern regarding the behaviour and the KPDSB's expectation for appropriate behaviour by providing a copy of the KPDSB's Policy and Procedures 709 – Workplace Harassment, and/or other relevant KPDSB policies and procedures, and by 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.

Supervisory and managerial personnel shall advise those involved in the informal resolution process that the information obtained during an informal resolution will not be introduced as evidence in any subsequent formal proceedings.

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

When initiating a complaint, student complainants should contact their Principal or Vice-Principal directly. If the student needs assistance in reporting the complaint, contact with the school administration should be made on the student's behalf by another individual such as a parent/guardian, teacher (in accordance with the provisions of the Teaching Profession Act), other supportive adults in the school, or another student. If the Principal is the party alleged to be responsible for the harassment or alleged to have condoned the behaviour, the complaint shall be reported to the appropriate School Superintendent. Student respondents may wish to contact their Principal or Vice-Principal directly, their

parent(s)/guardian(s), teacher(s), other supportive adults in their school, or another student. For assistance and representation throughout the complaint process, both student complainants and student respondents are referred to the list above.

Employee complainants should contact their appropriate supervisory, colleague, Union, federation, or association representative. If an employee requires assistance in making this complaint, 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 harassment, 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, another individual (i.e., a colleague or parent can make the complaint on their behalf).

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 above.

Supervisory and managerial personnel who are contacted shall proceed in accordance with the procedures set out in *section 4 – Managerial Procedures for Dealing with 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, 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 actions.

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;
- School support staff;
- Teacher;
- Student;
- Union/federation/association representative;
- Employee or Colleague; or
- Translator/interpreter (if necessary).

4. Managerial Procedures for Dealing with a Complaint

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

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

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

In all cases, supervisory and managerial personnel have a duty to respond to and take action to resolve any alleged or suspected situations involving harassment. The following steps provide a framework for the initial response:

a) Fact-Finding

Conduct preliminary fact-finding to ascertain:

- Past history of both the respondent and the complainant regarding similar past complaints or allegations or offences;
- The behaviour, policy, or practice involved;
- The violation of this or another KPDSB policy;
- The identification of the parties;
- The severity of the situation; and/or
- The possible witnesses.

b) Informing

Fully inform and advise, if appropriate, those who are, and have the potential of, becoming involved in the complaint procedures about the Policy, including the appropriate Union representative.

c) Choosing a Procedure

i) 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.

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 not appropriate in the following circumstances:

- not all parties are sincerely committed to the process;
- one (1) of the parties is in a position to withhold or confer a benefit, since the authority or power imbalance may result in coercion; or
- students involved in disputes with employees or other users, including parents/guardians and the community covered by this Policy.

Supervisory and managerial personnel shall advise both parties who agree to mediation that information obtained during mediation or an attempted settlement arising from the mediation cannot be introduced as evidence in any subsequent formal proceeding.

In cases where mediation is sought, the Human Resources Department shall provide trained mediators who are acceptable to both parties. In no

circumstances shall a mediator be used who is involved, in any capacity, in the same learning or worksite as the parties.

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

Any settlement that is reached must be mutually accepted by the parties in writing.

Supervisory and managerial personnel shall ensure that the terms that the parties have agreed to have been met.

ii) **Managerial Formal Resolution:**

Managerial Formal Resolution requires an investigation of the complaint allegations.

Where the complainant and the respondent have different reporting structures, supervisory and managerial personnel involved will determine who the appropriate person(s) is to take responsibility for the investigation.

Under Managerial Formal Resolution, supervisory or managerial personnel who conduct the investigation shall ensure that the following steps are taken as soon as possible:

- take appropriate measures to ensure the safety of the complainant(s);
- notify the complainant(s), the respondent(s), and witness(es) that they are entitled to support and assistance throughout the process;
- ensure that the respondent(s) has a copy of the complaint;
- interview the complainant(s) and/or the third party reporting the complaint;
- inform the respondent(s) of the allegations and provide an opportunity for response;
- interview the respondent(s);
- interview the witness(es);
- come to conclusions about whether a specific incident did or did not occur based on a balance of probabilities;
- provide an opportunity for the complainant(s) affected and the respondent(s) to respond to the findings and to the conclusions; and
- 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.

d) Standard of Proof

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

e) Outcomes in Managerial 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;
- Workshops for the staff and/or others in the school or workplace regarding their rights and responsibilities (see *Appendix A*);
- Permanent separation of respondent and complainant from each other; and/or
- Restorative measures.

f) Disciplinary Actions

i) Student Respondents:

After due process and following the principles of progressive discipline, the Principal may deem that the offence warrants discipline. The Principal will follow the appropriate procedures for addressing student misconduct, as outlined in the Education Act and other KPDSB policies and procedures, such as the KPDSB's Code of Conduct or Safe and Supportive Schools policies.

ii) Employee Respondents:

The appropriate supervisor or manager shall impose discipline as appropriate. 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.

iii) 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.

g) Review

In the event a complainant or respondent to a formal complaint has one (1) or more of the specific concerns listed below, a request may be made to the Director of Education, or Designate, to convene a review. Such request must be made within ten (10) working days of the response. 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.

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 discrimination and harassment 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 harassment. Anyone who feels that they are being harassed has the right and responsibility to tell the harasser 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.



Procedure Section: **Personnel and Employee Matters**

700

Procedure Name: **Workplace Harassment**

709

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 Harassment: *(please use additional pages if necessary)*

Name of Respondent(s): *(alleged harasser)*

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.



Procedure Section: **Personnel and Employee Matters**

700

Procedure Name: **Workplace Harassment**

709

***Appendix B – Workplace Harassment
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.