

PROCEDURE

Workplace Harassment

Cross References:	
Policies: 503, Equity and Inclusive Education 709, Workplace Harassment; 708, Respectful Working & Learning Environment 711, Workplace Violence	October 13, 2015

Respectfully submitted by
Jocelyn Bullock, Human Resources Manager

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 Procedures document in a timely fashion.

1. Procedures

1.1 General

In accordance with the 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 the filing of a grievance. In such a case, this process and the Procedures shall cease.

1.2 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 formal stage) with the victim's consent.

1.3 Timelines

All complaints must be reported within ten months of the most recent alleged harassing behaviour. A complaint outside this time frame may be considered by consulting the principal, appropriate supervisor or supervisory officer.

1.4 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 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.

1.5 Records

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 possession of the Human Resources Department.

1.6 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.

1.7 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 harassment.

1.8 Informal Resolution

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

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

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.

2. Formal Complaint Procedures

2.1 Initiating a Formal 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, teacher (in accordance in the provisions of Teaching Profession Act), other supportive adult in the school, or other student. If the principal is the party alleged to be responsible for the harassment or alleged to condone the behaviour, the complainant shall be reported to the appropriate School Superintendent. Student respondents may wish to contact their principal or vice-principal directly, their parents, teachers, 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 supervisor, a 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, 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 above and section 3.3 below.

Other user complainants should report the complaint to the appropriate supervisory and managerial personnel at the Board 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.

2.2 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.

2.3 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 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
- school support staff
- teacher
- student
- union/federation/association representative
- employee or colleague
- translator/interpreter (if necessary)

2.4 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 Workplace Harassment Policy and Procedures require that all those who are covered by the Policy report immediately 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 escalation and further negative consequences while promoting 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:

i) Fact Finding

Conduct preliminary fact finding to ascertain:

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

ii) 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.

iii) Choosing a Procedure

(a) 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 of the parties is in a position to withhold or confer a benefit, since the authority/power imbalance may result in coercion;
- students involved in disputes with employees or other users, including parents and 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 work site as the 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, 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.

(b) 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 is the appropriate person(s) 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:

- 1) take appropriate steps 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;
- 9) provide an opportunity for the complainant(s) affected and the

- respondent(s) to respond to the findings and to the conclusions;
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.

iv) Standard of Proof

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

Outcomes in Managerial 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.

v) Follow-up possibilities may include:

- 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 students in the school/workplace regarding their Rights and responsibilities (see Appendix A);
- permanent separation of respondent and complainant from each other;
- restorative measures.

4. Disciplinary Actions

4.1 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 Board policies and procedures, such as the Board's *Code of Conduct* or *Safe Schools Policies*.

4.2 Employee Respondents

The appropriate supervisor or manager shall impose discipline as appropriate.

The principles of progressive discipline will be applied in dealing with disciplinary actions under this policy. These may include the following possibilities:

- verbal warning;
- written reprimand;
- suspension with pay;
- suspension without pay;
- dismissal from employment with the Board.

4.3 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, or designate, is recommended in these cases.

5. 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. 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;
- 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.



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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

WORKPLACE HARASSMENT RIGHTS AND RESPONSIBILITIES

Everyone has the right to work and learn in an environment that is free of un-welcomed or intimidating behaviour 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 behaviours 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 Keewatin-Patricia District School Board 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 Keewatin-Patricia District School Board to work towards the elimination of discrimination and harassment in our schools and workplaces.
- It is the duty of the Keewatin-Patricia District School Board to maintain an environment respectful of human rights that is safe, nurturing and positive for all persons served by it.

By knowing your rights and responsibilities, you can stop harassment. Anyone who feels that they are being harassed has the right and responsibility to tell the alleged harasser that the behaviour is offensive, unwelcome, and must cease. They also have the right to report the offensive behaviour to someone in a position of authority who can facilitate resolution of the matter.

- **If you are experiencing harassing behaviour, contact your Principal, Manager/Supervisor or Supervisory Officer, as well as your union representative**



PRIVATE AND CONFIDENTIAL

WORKPLACE HARASSMENT FORMAL COMPLAINT FORM

Name(s) of Complainant(s):

School/Department/Worksite:

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

Description of Alleged Harassment. (Please use additional pages if necessary).

Name of Respondent(s) (Alleged Harasser(s)):

School/Department/Worksite:

Respondent(s): Student Employee, Job Title _____



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Other _____

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

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: _____

The information contained in this form is of a highly confidential nature and will be protected 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 attention of the appropriate Principal/Supervisor. If the concern is in regard to a Principal/Supervisor, the completed, sealed and marked envelope should be submitted to the attention of the appropriate Superintendent.

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