



PROCEDURAL GUIDELINES
GENERAL/SEXUAL HARASSMENT – FOR STUDENTS

(Refer to the Procedural Guidelines – Workplace Harassment for information re Employees)

SEXUAL HARASSMENT:

The Huron-Superior Catholic District School Board believes that the climate in the workplace must be one which recognizes and promotes a sense of dignity, mutual respect, and cooperation among all employees, students, and community partners.

In alignment with Policy 4024, *Safe Schools and Workplaces*, the Huron-Superior Catholic District School Board will promote and maintain a supportive environment in which all students can work and participate free from sexual harassment.

Definition of Harassment:

Harassment is defined in accordance with the Ontario Human Rights Code as, "engaging in a *course* of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome," and applies with respect to "race, ancestry, place of origin, colour, national or ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status mental or physical disability, or any other similar factor (e.g., socio-economic status, appearance)".

Sexual Harassment for the purpose of this policy, is defined as one or a series of incidents in which an employee/representative or student receives attention of a sexual nature which could reasonably be considered offensive, intimidating, or hostile. Harassment may also involve activities which are directed at no one person in particular, but which create a "poisoned environment" - insults and jokes of a sexual nature, and the display of pornographic material, for example.

A "poisoned environment" is harassment (general or sexual - depending on the nature) regardless of whether the students or employees working in that environment choose to complain.

The Ontario Human Rights Code provides, under the following sections, that:

- 5 (2) Every person has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status, mental or physical disability.

- 7 (2) Every person has a right to freedom from harassment in the workplace because of sex by his or her employer or agent of the employer or by another employee.

- 7 (3) Every person has a right to be free from,
 - (a) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or,
 - (b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

- 8 Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing.

- 9 No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

Harassment	
General	Sexual
Harassment may include, but is not limited to:	
<ul style="list-style-type: none"> • conduct, comment, gesture or contact which is known or ought reasonably to be known to be unwelcome by the person creating the conduct, comment, gesture or contact; • demeaning comments which undermine self-respect; or • the display or distribution of offensive material such as pictures, cartoons, and graffiti in schools and other Board premises. 	<ul style="list-style-type: none"> • unwelcome sexual advances or requests for sexual favours; • unwelcome behaviour of a sexual nature which places a condition on opportunities for learning, advancement, and achievement; • a threat or reprisal when a sexual advance is rejected; • verbal abuse or threats of a sexual nature; • unwelcome gender-based remarks, jokes, innuendos, or taunting about a person's body, physical appearance, attire, or sex; • unwelcome enquiries or comments about an individual's sex life; • unwelcome invitations or requests of a sexual nature, whether indirect or explicit, or intimidation; • leering or other gestures of a sexual nature; • telephone calls with sexual overtones; or, • unnecessary and unwanted physical contact such as touching, patting,

HARASSMENT IS NOT an occasional or casual compliment or any voluntary relationship nor normal exercise of supervisory responsibilities, including direction, counselling and discipline when necessary.

PROCEDURES PERTAINING TO STUDENTS

INFORMAL PROCEDURE

All students have the right to bring forward a complaint in an atmosphere of respect and confidentiality without fear of embarrassment or reprisals. It is the responsibility of a board employee to bring forward to the principal/vice-principal any alleged incident of harassment of students of which he/she is aware, whether or not there is a complaint.

- i) The complainant should be encouraged to make known her/his disapproval or unease to the alleged harasser, where appropriate. An individual may not realize that an action is offensive and a simple discussion may resolve the problem. If the individual (alleged harasser) refuses to cooperate and further harassment occurs, remind him/her that the behaviour may be in violation of the Human Rights Code and Board Policy and that you may proceed to a further step.

OR

If the complainant is not able to approach the alleged harasser or if circumstances make it difficult to take this measure, the student should seek assistance as soon as possible from a trusted board employee who shall not deal with the alleged complaint but shall bring it to the attention of the school principal/vice-principal unless the alleged harasser is the principal/vice-principal. NOTE: Where the alleged harasser is the principal or vice-principal, the complaint shall become a formal complaint and shall be brought to the attention of the school superintendent.

- ii) It is the responsibility of the principal/vice-principal or staff member in whom the student confides to advise the complainant that he/she has the right to file a formal complaint. Parent(s)/Guardian(s) (if student is under the age of 18) must be informed as soon as possible.

- iii) If the student does not wish to file a formal complaint, the principal/vice-principal shall discuss the allegation with the alleged harasser and the complainant with a view to reaching a resolution.

The above should occur within 5 working days. (The timeline may be extended depending upon the circumstances.) Names should, as far as possible, remain confidential.

Many complaints can be satisfactorily resolved in this manner and the matter goes no further. (If the complaint is not satisfactorily resolved in this manner, the matter shall move to the formal procedure).

FORMAL PROCEDURE:

All students have the right to bring forward a formal complaint and to obtain a review of their complaint in an atmosphere of respect and confidentiality without fear of embarrassment or reprisals.

Upon receipt of a formal complaint, the principal/vice-principal shall ensure that regard is given to the following process (normally within thirty (30) working days of the complaint).

- i) Written complaints by the student or his/her advocate precisely outlining the allegations shall be directed to the principal/vice-principal unless the alleged harasser is the principal/vice-principal. The principal/vice-principal is empowered to initiate a harassment investigation. Where the alleged harasser is the principal/vice-principal, the complaint shall be brought to the attention of the school superintendent. Where the alleged harasser is a Superintendent, the complaint shall be directed to the Director of Education. Where the alleged harasser is the Director, the complaint shall be directed to the Chair of the Board who shall direct the complaint appropriately.
- ii) The alleged harasser shall be given a copy of the written statement of allegation by the student or his/her advocate as soon as possible and an opportunity to respond in writing and/or orally.

- iii) Where the alleged harasser is an employee/representative, he/she has the right to be accompanied by a Federation/Union/Association representative or advocate during interviews related to the complaint. Where the alleged harasser is a student under the age of 18, he/she must be accompanied by a parent(s)/guardian. Where the alleged harasser is a student 18 and over, he/she has the right to be accompanied by a parent(s) or advocate.
- iv) The investigation shall be conducted with regard for due process and confidentiality shall be maintained as far as is possible. The investigation shall consist of interviewing the parties, gathering facts, and preparing a report.
- v) Both parties (complainant and alleged harasser) shall be informed of the findings, in writing, without undue delay and normally within thirty (30) working days of the request. (A longer time may be deemed necessary to investigate the allegations and to respond to these.)

RESOLUTION:

Where a harasser is an employee/representative: the immediate supervisor shall be responsible for the choice and the implementation of the corrective measures, in the event such measures are in order.

Where the harasser is a student: the principal/vice-principal shall be responsible for the choice and the implementation of the corrective measures, in the event such measures are in order.

A person who is found to have harassed a student shall be subject to the full range of disciplinary procedures - where the harasser is an employee: from letter of reprimand to termination of employment; where the harasser is a student: from letter of discipline to recommendation for expulsion.

The actions recommended shall be based on an assessment of the following factors: seriousness and frequency of the incidents, damage to the victim, past disciplinary record of the harasser, and the harasser's cooperation and willingness to change.

The report of disciplinary action resulting from a harassment complaint shall be placed in a sealed envelope in the employee's central personnel file or shall be placed in the student's OSR (Ontario Student Record Card). The length of time that the disciplinary action shall remain in the file shall be determined, by the supervisor, as part of the disciplinary action.

APPEAL:

- i) Both the complainant and the alleged harasser have the right to appeal the decision. An appeal must be made in writing within 15 working days to the immediate supervisor of the person making the decision.
- ii) An appeal under this section shall be reviewed by the immediate supervisor of the person making the decision, who shall have the authority to conduct any further investigation as may be deemed appropriate. The results of any further investigation shall be shared, in writing, with both the complainant and the alleged harasser. Based on the review, the supervisor may confirm, reverse, or modify the decision appealed.
- iii) The supervisor's decision can be appealed, in writing, to the Board within 15 working days. The appeal shall be held at an In-Committee meeting. The complainant and the alleged harasser have the right to attend. (See Section D, re: Procedure Governing Appeal Presentations To The Board.)

PROCEDURES PERTAINING TO EMPLOYEES/REPRESENTATIVES :

- Procedural Guidelines – Workplace Harassment
- Procedural Guidelines – Workplace Violence

GENERAL INFORMATION:

RESPONSIBILITIES OF PRINCIPALS/SUPERVISORS

It is the responsibility of all principals/supervisors to take measures to address any harassment of which they are aware - whether or not there is a complaint.

It is the responsibility of all principals to make new staff members aware of the policies and procedures pertaining to this harassment policy.

It is the responsibility of senior staff to ensure that new appointees to principal positions are aware of their responsibilities under this policy.

Failure to take measures to address harassment in the workplace has legal implications for the employer (Board). Ontario Human Rights Code, Section 41(2). (See appendix.)

CONFIDENTIALITY:

All policies and management practices are subject to the Municipal Freedom of Information and Protection of Privacy Act.

All information provided during an investigation shall remain confidential, subject to the requirement to disclose information or give evidence according to the law. No person shall be permitted to discuss the complaint or the resulting investigation, except for discussions necessary to conduct the investigation and make a decision.

OBLIGATION TO REPORT INCIDENTS OF HARASSMENT:

Failure of a complainant to lodge a complaint does not absolve the Board of its obligation to resolve any possible incidents of harassment. A formal investigation may be conducted in the following cases, even in the absence of a complaint lodged by the complainant:

- (1) where a person in a position of responsibility is made aware of (an) incident(s) of harassment, the incident(s) shall be reported to the appropriate supervisor or superintendent who shall initiate a formal investigation;
- (2) where a person witnesses harassment, the witness is encouraged to report the incident to the appropriate supervisor or superintendent;

- (3) where, after a serious incident, an individual refuses to lodge a complaint, the incident shall be investigated by the appropriate supervisor or superintendent; or,
- (4) where, over a period of time, a series of complaints, although all separate, are made against the same person, the incidents shall be investigated by the appropriate supervisor or superintendent.

April 2019

Appendix

Definition of Representative of the Board

Representative of the Board - A representative of the Board is an adult who is approved by the Board, Supervisory Officer, or Principal, to be present and/or assist in a school/facility. This person is not paid a wage or salary by the Board, (i.e. volunteer, co-op student, college student, student teacher).

Ontario Human Rights Code, Section 41(2)

"Where a board makes a finding under subsection (1) that a right is infringed on the ground of harassment under subsection 2 (2) or subsection 5 (2) or conduct under section 7, and the board finds that a person who is a party to the proceeding,

- (a) knew or was in possession of knowledge from which the person ought to have known of the infringement; and
- (b) had the authority by reasonably available means to penalize or prevent the conduct and failed to use it,

the board shall remain seized of the matter and upon complaint of a continuation or repetition of the infringement of the right the Commission may investigate the complaint and, subject to subsection 36 (2), request the board to re-convene and if the board finds that a person who is a party to the proceeding,

- (c) knew or was in possession of knowledge from which the person ought to have known of the repetition of infringement; and
- (d) had the authority by reasonably available means to penalize or prevent the continuation or repetition of the conduct and failed to use it,

the board may make an order requiring the person to take whatever sanctions or steps are reasonably available to prevent any further continuation or repetition of the infringement of the right."