



Huron-Superior Catholic

DISTRICT SCHOOL BOARD

Procedural Guidelines **Workplace Harassment**

The Huron-Superior Catholic District School Board is committed to providing a workplace environment in which all employees are treated with respect and dignity, free from objectionable conduct or harassment.

Harassment means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonable to be known to be unwelcome; it includes written, verbal and/or physical actions which express negative attitude, derogation and/or hatred for a person or group of persons based on their 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).

The normal proper exercise of supervisory responsibilities including training, evaluation, counselling, and discipline when warranted, does not constitute workplace harassment.

Specific Types of Workplace Harassment

Sexual harassment may include the following:

- Sexual advances or requests for sexual favours which are known or ought reasonably to be known by the person making the advances to be unwelcome.
- Sexually oriented remarks or behaviours which are known or ought reasonably to have been known by the person making the remarks and/or engaging in the behaviour to be unwanted or unwelcome.
- The display of sexually explicit or exploitative pictures, cartoons, or jokes or telling jokes of a sexual nature.
- Conduct involving unwanted or unnecessary physical contact or comment with a sexual innuendo that might be expected to cause discomfort, offence or humiliation.
- A reprisal for the rejection of a sexual advance or a request for sexual favours where the reprisal is made or threatened by a person in a position to grant, confer or deny a benefit, privilege or advancement.

Racial/Ethnocultural harassment may include the following:

- Physical or verbal abuse or threat;
- Demeaning comments, jokes, remarks, innuendoes or taunting about a person or group of persons' race, ancestry, place of origin, citizenship or creed which are known or ought reasonably to be known, to be unwelcome;
- Display or distribution of racist pictures, graffiti, or other derogatory material;
- Practical jokes or insulting gestures based on racial or ethnic grounds;
- Exclusion, avoidance or condescension because of race or ethnocultural background;
- Negative remarks about a racial/ethnocultural group in the presence of any individual, which creates a poisoned environment.

Complaint

1. All employees have a right to complaint about harassment and are entitled to have access to the complaint procedures.
2. Individuals who believe that they are targets of harassment may initiate a complaint.
3. 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.
4. Every employee has the right and is encouraged to contact his/her union/federation for assistance and advice through the process.
5. Non-unionized employees are encouraged to consult with the Manager of Human Resources.

Timelines

1. All complaints must be reported within one year of the most recent alleged harassing behaviour.
2. A complaint outside of the above time frame may be considered by consulting the Manager of Human Resources.

Confidentiality

1. Supervisory and managerial personnel will maintain confidentiality in the complaint process.
2. All complainants, respondents and other persons involved with the complaint will ensure all matters remain confidential.
3. Witnesses will be informed that any statements will be kept in strict confidence, subject to the ability to conduct a full and thorough investigation.
4. 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 respond to the allegations. This may require disclosure of witness names and statements.
5. The Board may be required to provide information obtained during an investigation to an outside agency, such as police services, court or tribunal, that has the right to require information otherwise protected by the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

Records

1. All correspondence and other documents generated under these procedures must, subject to the MFIPPA, be marked "Private and Confidential" and be stored in a locked and secure file in the Human Resources Department.
2. The Violence/Harassment Formal Complaint Form shall be used (See Appendix A).

Reprisals

1. Reprisal is defined as any act of retaliation, either direct or indirect.
2. Reprisals are prohibited against individuals, acting in good faith, who report incidents of workplace harassment or act as witnesses because they have reported a complaint.
3. The Board will take all reasonable and practical measures to prevent reprisals, threats of reprisal, or future harassment.

Supervisory and Managerial Responsibilities

1. Awareness of workplace harassment may result from direct observation or receipt of a report of harassment.

2. Supervisory and management personnel should pay attention to symptoms arising out of possible objectionable behaviour such as reduced productivity, changes in behaviour, absenteeism, requests for transfers or rumours.
3. The speedy resolution of a complaint can prevent escalation and further negative consequences and promote restoration of a healthy learning and working environment.

Informal Complaint Resolution

1. Supervisory or managerial personnel as well as union/federation representatives shall attempt to facilitate an informal resolution by:
 - Suggesting that the complainant confront the problem by making it clear to the individual alleged to have engaged in workplace harassment that the behaviour is unacceptable and by obtaining a commitment that the behaviour will stop;
 - Informing the individual of the complainant's concern regarding the alleged objectionable behaviour and the Board's expectation for appropriate behaviour, and obtaining a commitment that the behaviour will stop; and
 - Following up with the complainant to ensure that the behaviour has stopped.
2. Supervisory or managerial personnel may initiate mediation by a neutral third party.
3. When an informal plan of action is implemented, supervisory and managerial personnel will follow up by monitoring the situation and holding subsequent meetings if necessary.
4. Where disputes are resolved informally, no formal reports will be made about the dispute and nothing shall be recorded in any employee's personnel file.

Formal Complaint Resolution

Initiating a Formal Complaint

1. Formal complaints will only be initiated once all reasonable efforts have been made to resolve the conflict informally.
2. Employee complainants should contact their appropriate supervisor, a colleague, or a union/federation representative.
3. If an employee requires assistance in completing the Formal Complaint Form (See Appendix A), another individual such as a colleague or union/federation representative can make the complaint on the employee's behalf.
4. If the immediate supervisor is the party alleged to be responsible for the objectionable behaviour or allege to condone the objectionable behaviour, the complaint should be reported to the person responsible for the complainant's immediate supervisor.

Responding to a Formal Complaint

1. Individuals named as respondents in a complaint will be informed, 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.
2. A copy of the complaint will be provided which describes the specifics of an allegation, including times, dates, and alleged conduct.
3. Employee respondents should contact their appropriate supervisor, a colleague, or union/federation representative.
4. Respondents will be given time to prepare a full and complete response to the allegations.

Threshold Assessment

1. All formal reports filed under the Workplace Harassment Administrative Guideline will be subject to an immediate threshold assessment to determine whether the alleged conduct would, if proven, meet the definition of workplace harassment.
2. If the complaint does not meet the threshold, the complainant will be so advised and no further action will be taken.

Formal Investigation and Resolution

1. The investigation will be conducted by the supervisory staff of the complainant and/or respondent, unless such person(s) actively participated in the unsuccessful informal resolution process, in which case an independent investigator will be appointed.
2. Supervisory/managerial personnel will:
 - a. Take appropriate measures to ensure the safety of the complainant;
 - b. Notify the complainant(s), the respondent(s) and the witness(es) that they are entitled to support and assistance throughout the process;
 - c. Ensure that the respondent(s) have a copy of the complaint;
 - d. Interview the complainant(s) and/or third party reporting the complaint;
 - e. Inform the respondent(s) of the allegations and provide an opportunity for response;
 - f. Interview the respondent(s);
 - g. Interview witness(es);
 - h. Come to conclusions about whether a specific incident did or did not occur based on a balance of probabilities (standard of proof);
 - i. Provide a written summary of the findings and conclusions to the complainant and to the respondent and give them an opportunity to respond to same; and
 - j. Take appropriate action(s) to resolve the situation.
3. If the respondent declines to participate in the formal investigative process, the investigation will still proceed.
4. The respondent should be encouraged to participate in the interest of a balanced and fair process.
5. In the event the complaint is not substantiated, no further action will be taken, subject to the section on maintaining records.
6. If the complaint is found to be trivial, vexatious or an abuse of the process, the complainant may be subject to disciplinary action.
7. If there is a need to restore the positive learning or working environment, or if the complainant and/or respondent require counselling, appropriate steps will be taken to meet such needs.

Disciplinary Actions

1. The appropriate supervisor or manager may impose discipline as appropriate and consistent with the circumstances.
2. The principles of progressive discipline will be applied including:
 - a. Verbal warning
 - b. Written reprimand
 - c. Suspension with pay
 - d. Suspension without pay
 - e. Dismissal from employment from the Board.

3. Other user respondents may require actions as appropriate for the individual situation and may include:
 - a. Letter of disapproval and warning
 - b. Revoking of permits or contracts
 - c. Issuing a trespass warning
 - d. Other remedies as provided by common law and/or appropriate legislation.

Mediated Resolution

1. Mediation involves an unbiased third party acting as facilitator in direct communication between parties who voluntarily agree to enter this process.
2. Where there is already a formal complaint being investigated, at any time the parties may agree to hold the investigation in abeyance, and attempt to achieve a mediated resolution.
3. The trained mediator must be acceptable to both parties.
4. Meetings shall be scheduled as soon as possible, at a time and place convenient for the complainant, the respondent, and the mediator.
5. Mediation is voluntary and the complainant or respondent may choose to withdraw at any time.
6. When matters are resolved through mediation, the complainant and respondent will sign a memorandum of agreement outlining the terms to which they have agreed.

Review

1. A request for review may be made to the Director of Education, within ten working days, if:
 - a. The investigators did not comply with the procedures, or
 - b. New evidence has become known after the final decision but before the expiry of the ten working days limitation period for requesting a review.
2. The Director will appoint the reviewer.
3. 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.
4. The reviewer will report its findings to the Director of Education who will affirm or amend a final decision or require that a new investigation be undertaken.