



## YORK REGION DISTRICT SCHOOL BOARD

### ***Policy and Procedure #240.0, Human Rights: Code-Related Harassment and Discrimination***

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The Human Rights: Code-Related Harassment and Discrimination policy and procedure promotes the belief that all persons are entitled to work and learn in an environment that promotes human rights and equity of opportunity, and is free from discrimination and harassment.

#### **Who has responsibilities?**

- Board of Trustees
- Director of Education
- Associate Directors and Coordinating Superintendent(s)
- Human Resource Services
- Superintendents, Principals, Managers and Supervisors
- All students, staff and members of the community
- All parties of a human rights complaint

#### **How is this policy and/or procedure related to Board priorities?**

This policy and procedure supports the promotion of well-being through safe, caring and supportive schools and workplaces.

In addition, it directly supports positive experience by students and staff members with respect to equity and inclusivity in schools and workplaces.

#### **Legislative Context**

[Accessibility for Ontarians with Disability Act](#)  
[Canadian Charter of Rights and Freedoms](#)  
[Education Act](#)  
[Teaching Profession Act](#)  
[Occupational Health and Safety Act](#)  
[Ontario Human Rights Code](#)

#### **Related Documents**

[Accessibility](#)  
[Appropriate Use of Technology](#)  
[Caring and Safe Schools](#)  
[Conflict of Interest](#)  
[Equity and Inclusivity](#)  
[Health and Safety](#)  
[Healthy Schools and Workplaces](#)  
[Recruitment and Promotion of Staff](#)  
[Supporting Community Concerns](#)  
[Professional Misconduct and Progressive Discipline](#)  
[Violence Prevention and Intervention](#)

## Departments

Director's Office  
Human Rights Commissioner's Office  
Human Resource Services

*It is the expectation of the York Region District School Board that all employees, students and persons invited to or visiting Board property; or partaking/volunteering in Board or school-sponsored events and activities will respect the policies and procedures of the Board. The term "parents" refers to both*



# Board Policy #240.0 Human Rights: Code-Related Harassment and Discrimination

## 1. Policy Statement

The York Region District School Board believes that each person has the right to learn and/or work in an environment that is free from discrimination and harassment and protects, promotes and supports human rights. This policy supports a working and learning environment that is free of discrimination and harassment. The Board is dedicated to providing welcoming, safe, caring and inclusive schools and workplaces and will act promptly on all complaints in a fair, judicious and consistent manner in accordance with principles of human rights. The Board is firmly committed to meeting its obligations under the [Ontario Human Rights Code](#) in addressing human rights complaints in a fair, equitable and timely manner.

## 2. Application

This policy applies to all members of the Board community, including but not limited to, trustees, committee members, employees, students, parents/guardians, permit holders, vendors, service providers, contractors, volunteers and visitors and all other persons who are invited to or who work on Board property. Compliance with this policy is expected in all internal and external relationships.

This policy is not intended to discourage or prevent persons from exercising any other legal rights they may have pursuant to any other law, including the right to file a complaint with the [Human Rights Tribunal of Ontario](#) or any other administrative law process.

This policy does not in any way supersede any provisions on discrimination and harassment that already exist within collective agreements the Board has with various employee groups.

The Human Rights: Code-related Harassment and Discrimination policy and procedure outline the process for addressing allegations of harassment and discrimination that violate the [Ontario Human Rights Code](#). Personal harassment matters will be dealt with under the [Violence Prevention and Intervention and Non-Code Workplace Related Harassment – Employees](#) policy and procedures. Complaints of discrimination and/or harassment against a trustee will be investigated under the [Trustee Code of Conduct](#).

The Board strives to be accessible and, as such, is committed to providing reasonable accommodation for its constituents whose circumstances pertain to defined protected grounds under the [Ontario Human Rights Code](#).

Prohibited grounds<sup>1</sup> under Ontario's [Human Rights Code](#) include:

- age,
- ancestry,
- colour,
- race
- citizenship,
- ethnic origin,

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<sup>1</sup> Ontario Human Rights Commission. (n.d.) the Ontario Human Rights Code. Retrieved January 10, 2018, from <http://www.ohrc.on.ca/en/ontario-human-rights-code>

- place of origin,
- creed,
- disability,
- family status,
- marital status (including single status),
- gender identity/gender expression,
- receipt of public assistance (housing only),
- record of offenses (employment only),
- sex (including pregnancy and breast feeding), and
- sexual orientation.

Persons who believe that they have been subjected to harassment and/or discrimination are encouraged to express concerns and register complaints without fear of retaliation or reprisal.

If it is determined that a complaint is malicious or filed in bad faith, an investigation into the human rights complaint may not take place or be discontinued and disciplinary action may result.

Complaints of harassment and/or discrimination will be treated in a confidential manner and in accordance with the [Municipal Freedom of Information and Protection of Privacy Act](#) and in accordance with the provisions of an applicable collective agreement. The Human Rights Commissioner's Office will not disclose the name of a complainant or a respondent or the circumstances related to the complaint to any person except where disclosure is necessary to investigate the complaint or take action with respect to the complaint or where required by law.

### 3. Definitions

Terms such as harassment, discrimination and systemic discrimination are accorded legal meaning. These terms may already be defined in collective agreement provisions and do not replace or supersede existing definitions contained in collective agreement provisions relevant to harassment and discrimination.

#### 3.1. Harassment <sup>2</sup>

Based on any prohibited ground(s) identified in the [Ontario Human Rights Code](#), engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome, unwanted, offensive, intimidating, hostile or inappropriate and includes sexual harassment.

Harassing conduct includes, but is not limited to:

- epithets, remarks or innuendos;
- showing or circulating offensive pictures, graffiti or materials, whether in print form or using e-mail or other electronic means;
- singling out an individual for humiliating or demeaning "teasing"; and
- comments ridiculing an individual because of characteristics, dress, etc.

While often a pattern of comments or conduct, in limited circumstances, a singular incident may be recognized as harassment, depending on the nature of the comment or conduct.

Personal conflict and reasonable action taken by the employer or supervisor relating to the management and direction of staff or the workplace is not harassment.

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<sup>2</sup> Ontario Human rights Code. (n.d.). Harassment. Retrieved January 26, 2018, from <http://www.ohrc.on.ca/en/tag/discrimination-type/harassment>

Non-Code workplace related harassment against an employee of the Board is based on the Occupational Health and Safety Act.

### **3.2. Discrimination<sup>3</sup>**

Adverse differential treatment of a person or group of persons on the basis of a prohibited ground of discriminated ground of discrimination as set out in the Ontario Human Rights Code. Discrimination may be intentional or unintentional and occur directly or indirectly. Forms of discrimination include, but are not limited to:

- direct, indirect, subtle and adverse effect discrimination;
- harassment;
- sexual harassment;
- poisoned environment;
- systemic discrimination;
- association or relationship with a person identified by one of the prohibited grounds; and
- the perception that one of the prohibited grounds applies.

This policy also includes any new prohibited grounds that may be included in the Human Rights Code at a future date and prior to a cyclical review.

### **3.3. Discrimination exception<sup>4</sup>**

Nothing in this policy prohibits discrimination under special programs for advancing reasonable accommodation, equity programs and or pilot projects with the goal of achieving equity and inclusion for members of historically marginalized communities.

### **3.4. Malicious complaint**

A claim that is deliberately and maliciously filed in order to damage the reputation of an person or group, or otherwise filed in bad faith, or which is known or ought to have reasonably been known by the complainant to have no reasonable basis in fact may be considered harassment.

Poisoned environment<sup>5</sup> A poisoned environment is a form of discrimination that creates a negative psychological and emotional environment for work or study and can arise from a single incident. It may be created by the comments or the actions of any person, regardless of his or her status. The comments or conduct do not have to be directed at a particular person.

### **3.5. Reprisal<sup>6</sup>**

Reprisal is the negative treatment or suggestion of negative treatment of a person because of their involvement in a human rights complaint, investigation or resolution process.

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<sup>3</sup> Ontario Human Rights Commission. (n.d.). Forms of discrimination. Retrieved January 10, 2018, from <http://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability/6-forms-discrimination>

<sup>4</sup> Ontario Human Rights Commission. (n.d.). Special Programs. Retrieved January 26, 2018, from <http://www.ohrc.on.ca/en/policy-preventing-discrimination-based-creed/8-defences-and-exceptions>

<sup>5</sup> Ontario Human Rights Commission. (n.d.). Forms of discrimination. Retrieved January 10, 2018, from <http://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability/6-forms-discrimination>

<sup>6</sup> Ontario Human Rights Commission. (n.d.). Reprisal. Retrieved January 31, 2018, from [http://www.ohrc.on.ca/en/search/site/reprisal#\\_edn114](http://www.ohrc.on.ca/en/search/site/reprisal#_edn114)

### 3.6. Sexual harassment <sup>7</sup>

A form of harassment that consists of:

- sexual solicitation or unwanted sexual attention from a person who knows or ought reasonably to know that such attention is unwanted;
- implied or expressed promise of reward for complying with a sexually oriented request;
- implied or expressed threat of reprisal or actual reprisal for refusing to comply with a sexually oriented request;
- a sexual relationship that constitutes an abuse of power in a relationship of authority; or
- sexually oriented comment or behaviour that may reasonably be perceived to create a poisoned environment.

### 3.7. Systemic discrimination<sup>8</sup>

Entrenched and institutional practices, systems and structures that operate to limit an individual's or groups' rights to opportunities or exclude an individual or group from participation on the basis of a prohibited ground. It is a pattern of discrimination that arises out of apparently neutral institutional policies or practices, that is reinforced by institutional structures and power dynamics, and that results in the differential and unequal treatment of members of certain groups. Systemic discrimination does not occur when the requirement, qualification or factor is in good faith and legitimate in the circumstances or is permitted by law.

### 3.8. Workplace harassment <sup>9</sup>

A form of personal harassment that involves engaging in a course of vexatious comment or conduct against a worker in a workplace, conduct that is known or ought reasonably to be known to be unwelcome. Workplace harassment does not include legitimate performance management of an employee.

## 4. Responsibilities

4.1 The Board of Trustees is responsible for:

- a) supporting a working and learning environment that is respectful of human rights;
- b) engaging in respectful relationships;
- c) reviewing this policy in accordance with the priorities in the [Multi-Year Plan](#), relevant legislation and the approved policy review cycle;
- d) understanding and communicating with members of the community about this policy and its accompanying procedures, where applicable;
- e) understand and adhere to the Human Rights: Code-Related Harassment and Discrimination policy and procedure; and direct any anonymous complaints to the Human Rights Commissioner's Office when appropriate;
- f) support the application of the Human Rights: Code-Related Harassment and Discrimination policy and procedure in all sectors of the Board;
- g) create and maintain an inclusive learning and working environment that respects human rights; and

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<sup>7</sup> Ontario Human Rights Commission. (n.d.). defining sexual harassment. Retrieved January 26, 2018, from <http://www.ohrc.on.ca/en/policy-preventing-sexual-and-gender-based-harassment/2-identifying-sexual-harassment>

<sup>8</sup> Ontario Human Rights Commission. (n.d.). Forms of discrimination. Retrieved January 10, 2018, from <http://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability/6-forms-discrimination>

<sup>9</sup> Ministry of Labour. (2016). Health and Safety Guidelines. Workplace Violence and Harassment: Understanding the Law. Retrieved January 31, 2018, from [https://files.ontario.ca/wpvh\\_guide\\_english.pdf](https://files.ontario.ca/wpvh_guide_english.pdf)

- h) be aware of human rights issues and bring forward any concerns pertaining to discrimination and harassment to the Human Rights Commissioner's Office when applicable.

4.2 The Director of Education is responsible for:

- a) implementing and operationalizing the Human Rights: Code-Related Harassment and Discrimination policy.

## 5. Legislative Context

[Accessibility for Ontarians with Disability Act](#)

[Canadian Charter of Rights and Freedoms](#)

[Education Act](#)

[Teaching Profession Act](#)

[Occupational Health and Safety Act](#)

[Ontario Human Rights Code](#)

## 6. Related Documents

[Accessibility](#)

[Appropriate Use of Technology](#)

[Caring and Safe Schools](#)

[Conflict of Interest](#)

[Equity and Inclusivity](#)

[Health and Safety](#)

[Healthy Schools and Workplaces](#)

[Professional Misconduct and Progressive Discipline](#)

[Recruitment and Promotion of Staff](#)

[Standards of Conduct](#)

[Supporting Community Concerns](#)

[Violence Prevention and Intervention and Non-Code Workplace Related Harassment – Employees](#)

## 7. Departments

Director's Office

Human Rights Commissioner's Office

Human Resource Services

## 8. History

Formerly Policy 240.0, Respectful Workplace and Learning Environment

Working Document: May 2017

Approved: March 2018



## Board Procedure #240.0 Human Rights: Complaint Resolution Processes

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This procedure outlines the complaints processes related to allegations of harassment and discrimination that violate the [Ontario Human Rights Code](#) for members of the York Region District School Board community.

### 1. Application

1.1 There are other Board policies and procedures under which concerns not related to the Ontario Human Rights Code may be raised. Efforts should be made to resolve the concern at the earliest possible stage through dialogue with principals, supervisors, and/or superintendents. Restorative practices will be applied to resolve concerns and complaints.

Based on the circumstances surrounding a concern, community members may be directed to one of the following processes:

- a) Complaints against a trustee will be addressed under the [Trustee Code of Conduct](#).
- b) Incidents of harassment and/or behaviour of a violent nature including physical and/or sexual assault must be formally reported and investigated in accordance with the emergency response measures outlined in the [Violence Prevention and Intervention and Non-Code Workplace Related Harassment – Employees](#) policy and procedure.
- c) Concerns related to accommodation for the provision of services under the [Accessibility for Ontarians with Disabilities Act](#) (AODA) should initially be reported under the [Accessibility](#) policy and procedure for resolution prior to an investigation under this policy and procedure.

1.2 While it is encouraged to resolve the concern through dialogue, this does not prevent complainants from engaging the Human Rights Commissioner's Office (HRCO) at a later date.

1.3 This procedure does not prevent or discourage a person from filing an application with the [Human Rights Tribunal of Ontario](#) within the deadlines set out in the [Ontario Human Rights Code](#) or a person's right to pursue any other external legal options that may be available.

### 2.0 Complaints

2.1 Subject to any collective agreement, complaints will be handled according to this policy and procedure.

2.2 Complaints of harassment and/or discrimination in departments should be reported to the principal and/or superintendent, supervisor or manager according to the process outlined in the procedure.



- 2.3 Members of the Board community who believe they have been discriminated against or subjected to harassment may:
- a) resolve the concern in a collaborative and respectful manner;
  - b) request a referral to the Human Rights Commissioner's Office by a principal superintendent or a director, manager or supervisor;
  - c) consult with the Human Rights Commissioner's Office regarding possible actions;
  - d) make an informal complaint with a request for early resolution, by submitting a *Reporting Form*; and/or
  - e) submit a *Formal Complaint Form*.

### **3.0 Complaint Resolution Processes**

There are a variety of stages available to support the resolution of a Human Rights concern. Wherever possible and appropriate, parties to a complaint are encouraged to resolve concerns, at the earliest possible stage, independent of the Human Rights Commissioner's Office.

### **4.0 Initiating a Complaint**

- 4.1 Complainants wishing to engage the services of the HRCO are required to contact the HRCO and/or complete a *Reporting Form*.
- 4.2 The *Reporting Form* will be forwarded to the Human Rights Commissioner for preliminary assessment. Wherever possible a telephone call or in-person consultation will be arranged within three regular business days.

### **5.0 Preliminary Assessment**

- 5.1 Following consultation with the complainant, the Human Rights Commissioner will determine if the complaint meets the threshold under the Human Rights: Code-Related Harassment and Discrimination policy and procedure or if the matter should be referred under another Board policy or collective agreement.
- 5.2 If the outcome of the preliminary assessment determines the complaint will be addressed under another process, the role of the HRCO will end and the complainant will be advised in writing.

### **6.0 Informal Resolution Process**

- 6.1 Efforts should be made to resolve the concern and apply restorative practices at the earliest possible stage. Early/site-based resolution will be explored in order to give parties an opportunity to resolve a dispute in a collaborative and respectful manner that attempts to rebuild, maintain or address a concern. Early/site-based resolution options may include:
- a) **Informal Dialogue:** Any individual who believes that they have been harassed or discriminated against may choose, if they feel comfortable, to try to resolve the issue by directly approaching the person(s) involved, stating clearly that the behaviour or actions are objectionable and must be stopped.

- b) Mediation:** By agreement of the parties, this may be used at any time in the process. Mediation is a voluntary process and involves a facilitator assigned by the Human Rights Commissioner's Office who will communicate directly with the parties. It is an opportunity to resolve concerns in a mutually respectful manner. Information collected during mediation cannot be introduced as evidence in any future investigation.
- c) Site-Based Investigation:** If the complainant feels that the informal dialogue did not resolve the concern, they may bring the matter to the appropriate supervisor to facilitate an investigation within a timely manner. The investigation will include:
- Notification and support from the immediate supervisor and the Human Rights Commissioner's Office.
  - Notification in a timely manner to the parties that;
    - a matter is being investigated,
    - they may be contacted to provide a statement, and
    - they may seek support and assistance from their representative.
  - An interview with the complainant(s).
  - An opportunity for the respondent(s) to provide a response.
  - Interview(s) of witnesses.
  - A decision as to whether an incident occurred.
  - An opportunity for the complainant(s) and respondent(s) to respond to the findings and decision.
  - Implementation of appropriate action(s) to resolve the situation.
  - Monitoring of the situation to ensure the resolution is maintained and the concern is not repeated.

## **7.0 Respondent's Right to Know**

- 7.1 Respondents have a right to know the allegations and the complaint resolution process being applied.

## **8.0 Interim Measures**

- 8.1 There may be situations where it is appropriate to separate the complainant and respondent or to cease communications between them in order to stabilize the situation. These arrangements may be made for an interim period pending the outcome of the complaint investigation.

## **9.0 Formal Complaint Resolution Process**

- 9.1 The formal complaint resolution process includes a full investigation of the allegations by the HRCO.

- 9.2 Formal complaints should be made by completing and signing a *Formal Complaint Form*. If support is required in completing the form, accommodations may be requested. The *Formal Complaint Form* will:

- a) specify the name(s) of the person(s) alleged to have demonstrated behavior(s) of a discriminating and/or harassing nature;
- b) specify the particulars of the behavior(s) believed to be discriminating and/or harassing in nature, including the time, date and context of the alleged behavior(s);
- c) specify the name(s) of person(s) who may have been witness to the alleged conduct; and
- d) where appropriate, indicate the steps taken by the complainant to attempt to resolve the matter, before filing a formal complaint.

- 9.3 Any community member who believes that they have been harassed and/or discriminated against, and who has attempted to resolve the matter through early/site-based resolution processes, may file a formal complaint, where an informal resolution process has failed to resolve the matter.
- 9.4 Complaints may also be filed by persons who witnessed the discriminatory and/or harassing conduct or behaviour. This process applies to individual and/or group complainants and respondents.
- 9.5 During the investigation process, the HRCO will:
- a) Receive the formal complaint.
  - b) Confirm receipt of the formal complaint in writing within two regular business days. Provide the complainant with a copy of the Human Rights: Code Related Harassment and Discrimination policy and procedure.
  - c) Where appropriate, consult with Human Resource Services and supervisory staff, to determine if the complainant(s) and respondent(s) should be separated in their current learning or working environment.
  - d) Consult with Human Resource Services if an investigation would duplicate or influence another proceeding and consider whether an investigation will proceed. A rationale for this decision will be provided in writing to the complainant.
  - e) Notify the respondent(s) of the complaint within five regular business days of receiving the complaint. Provide the respondent with a copy of the Human Rights: Code Related Harassment and Discrimination policy and procedure. Advise the respondent(s) of their right to provide a written response within five regular business days.
  - f) Notify the complainant and the respondent(s) of the right to representation. Each person involved in a complaint may be accompanied by a support person during the meeting.
  - g) Notify all participants of confidentiality requirements.
  - h) Conduct an initial investigation to determine if the allegations have merit and if a formal investigation will be conducted. If it is determined that the allegations do not have merit, recommend other options for resolution. If it is determined that the allegations have merit, proceed with a formal investigation.
  - i) Determine who is to be interviewed as part of the investigation.
  - j) Collect and review any relevant documents related to the complaint.
  - k) Arrange separate meetings with the complainant(s) and the respondent(s). Every effort will be made to schedule these meetings within five regular business days of receiving the written response from the respondent(s). This timeline may be extended up to an additional five regular business days or at another mutually accepted time. Rationale for any extension or adjustment to the timelines will be provided, in writing to all parties of the complaint.

- l) Arrange a joint meeting with the complainant(s) and respondent(s), at any time during the investigation, in an attempt to facilitate a mutually acceptable solution. This meeting will only take place if both parties are in agreement.
- m) Offer both parties the opportunity for mutual participation in rights-based mediation, conducted by the Human Rights Commissioner. Participation is voluntary and the parties may refuse to participate in mediation. If the parties agree to participate, there will be a written agreement. Either party may discontinue the mediation at any time. The decision not to participate in mediation or to discontinue mediation will not be held against a party.
- n) Determine whether or not there was a breach of the Human Rights: Code-Related Harassment and Discrimination policy and procedure based on a standard of proof and share preliminary findings with the complainant(s) and respondent(s) who will have ten regular business days to provide a written response.
- o) Consider written responses, to the preliminary findings, submitted by the complainant(s) and respondent(s) and make a final decision as to whether a breach of the Human Rights: Code-Related Harassment and Discrimination policy and procedure has occurred.
- p) Communicate the outcome of the investigation to the complainant(s) and respondent(s) in writing. Disciplinary consequences and/or corrective actions are not to be included in this communication.
- q) Assess whether disciplinary consequences or corrective actions are required;
  - for matters related to *staff members*, work with Human Resource Services to determine appropriate consequences and/or corrective actions in accordance with the [Progressive Discipline](#) policy and procedure,
  - for matters related to *students*, work with the principal to determine appropriate consequences and/or corrective actions in accordance with the [Caring and Safe Schools](#) policy and procedure,
  - for matters related to *community members*, work with the appropriate superintendent, principal, manager and/or supervisor to determine appropriate consequences and corrective action in accordance with the [Standards of Conduct](#) policy and procedure.
- r) Share information required to implement disciplinary consequences or corrective actions only with the respondent(s) and staff members responsible for the implementation of the recommendations.

9.6 The final investigation report will be maintained by the HRCO.

9.7 Human Resource Services will retain appropriate documentation to support any disciplinary measures for staff members, if required.

## **10.0 Standard of Proof**

10.1 The standard of proof to be applied in a Human Rights investigation is the civil standard which is a balance of probabilities. This means that on the evidence and information provided, the occurrence of the event was more likely than not.

## **11.0 Formal Investigation – Potential Outcomes**

11.1 The following actions may be taken subsequent to an investigation and findings:

- a) counseling for one or both parties;
- b) strategies to restore a positive working and learning environment, including, but not limited to, a joint meeting of complainant(s) and respondent(s) to determine future operating norms;
- c) training for one or both parties;
- d) workshops;
- e) restorative approaches;
- f) disciplinary action in accordance with applicable Board policies and procedures; and/or
- g) any other appropriate action.

## **12.0 Appeal Process**

12.1 The complainant(s) or respondent(s) may make an appeal to the HRCO.

12.2 An appeal must be submitted in writing within ten regular business days of receiving the final investigation report.

12.3 The Human Rights Commissioner will review the original decision and within fifteen regular business days will:

- affirm the original decision,
- vary slightly but affirm the decision overall; or
- amend the decision.

12.4 An appeal is not meant to duplicate the investigation process that was undertaken. A complainant or respondent may appeal to the Human Rights Commissioner from the investigation report's determination(s) on the following grounds only:

- a) That the investigation was conducted in an unfair or biased manner contrary to the rules of natural justice.
- b) That the findings of fact contained in the investigation report are insufficient to support a determination that discrimination and/or harassment has been established.

12.5 In an appeal by the complainant or respondent from the final investigation report determination(s), either opposing party shall be entitled to put forward a submission.

12.6 The appeal determination by the Human Rights Commissioner shall be final.

## **13.0 Timelines**

13.1 Complaints must be reported within one year after the last alleged contravention. In the event a complaint is reported after one year, the complainant must identify in writing the reasons for the delay in filing the complaint, for consideration.

13.2 It is within the discretion of the Human Rights Commissioner to determine whether or not a complaint can be filed beyond the one year anniversary of the last alleged contravention.

- 13.3 The timelines outlined in this procedure for the filing of a response, reply and sending of a report are meant to ensure that a complaint is dealt with in a timely fashion. Parties will be notified as required, if an extension is needed.
- 13.4 There may be, in exceptional and compelling circumstances, reasons to extend a timeline. In this case, the Human Rights Commissioner may authorize an extension where the delay is incurred in good faith and the extension does not prejudice or harm those involved in the complaint.
- 13.5 It may not always be possible to accurately determine appropriate timelines for the resolution, investigation or final decision with respect to a particular complaint. Therefore, where no timelines are mentioned, the intention is to use a reasonable time period, and to act as expeditiously as possible in light of the nature and complexity of the circumstances of the complaint and of other circumstances that may arise during the complaint process that are beyond a party's reasonable control.

#### **14.0 Complainants**

##### *14.1 Students*

14.2 Students, with their parent(s)/guardian(s) where applicable, who believe they have been discriminated against or harassed should contact their principal or vice-principal.

14.3 If the principal is the party alleged to be responsible for the discrimination and/or harassment or alleged to condone the behavior, the incident/complaint should be reported to the appropriate Superintendent of Education or the HRCO.

14.4 The principal or other appropriate staff member will immediately inform the parent(s)/guardian(s) of the student(s) if a complaint is made by or against a student, unless the student is over 18, or 16 or over and/or withdrawn from parent consent.

14.5 Students may use the assistance of their parents/guardians or an adult third party to support their complaint.

##### *14.6 Staff members*

14.7 Staff members who believe they have been discriminated against or harassed should contact their immediate supervisor.

14.8 If the immediate supervisor is the party alleged to be responsible for the discrimination and/or harassment or alleged to condone the behavior, the incident/complaint should be reported to the appropriate Superintendent of Education, Associate Director, Director of Education or the HRCO.

##### *14.9 Members of the Community*

14.10 Members of the community who believe they have been discriminated against or harassed should contact the appropriate school, department or Board level supervisor where the harassment and/or discrimination took place. If this person is the party alleged to be responsible for the harassment and/or discrimination or alleged to condone the behavior, the incident/complaint should be reported to the appropriate Superintendent of Education or the Human Rights Office.

14.11 *Trustees*

14.12 Trustees who believe they have been discriminated against or harassed by a staff member, student or community member shall report the incident/complaint to the Director of Education (or designate).

14.13 *Special Situations*

14.14 If the Director of Education is the respondent or is alleged to condone the behavior, the complainant should direct their incident/complaint to the Chair of the Board (or designate).

14.15 If the Human Rights Commissioner is the respondent or is alleged to condone the behavior, the complainant should direct their incident/complaint to the Director of Education.

14.16 If a trustee is the party alleged to be responsible for the discrimination and/or harassment or alleged to condone the behavior, the complainant should direct their complaint to the Integrity Commissioner for investigation under the [Trustee Code of Conduct](#).

14.17 Where a person feels that the operation of a Board policy, procedure, process or practice is discriminatory under the Ontario Human Rights Code, the incident/complaint should be submitted to the Human Rights Office.

**15.0 Collective Agreement**

15.1 In the case of a complaint filed by a York Region District School Board unionized employee, this procedure is not meant to replace or supersede complaint or investigation processes within the relevant collective agreement provisions.

15.2 If there is a relevant collective agreement, the complaint will be dealt with under the relevant provisions of that collective agreement and where there is no applicable collective agreement or no relevant provisions within a collective agreement, the complaint will be handled in accordance with this procedure.

15.3 Following a preliminary assessment it may be determined that, a matter first brought to the HRCO falls outside the scope of this policy.

**16.0 Confidentiality**

16.1 In accordance with the [Municipal Freedom of Information and Protection of Privacy Act](#) or other applicable legislation, every attempt will be made throughout the complaint resolution process to respect the confidentiality and personal rights of all parties to the complaint.

16.2 Information about the complaint is provided only to those who need to know in order to investigate and/or resolve the complaint. Where appropriate, the person will be consulted before any disclosure of information is made.

16.3 Parties involved in a complaint must and are expected to maintain confidentiality, as breaches of confidentiality may jeopardize the proper functioning of the processes outlined in this procedure. If breaches of confidentiality should occur, this would be reviewed and, depending on the circumstances, could lead to consequences for the person(s) responsible for the breach.

16.4 Any person conducting a mediation of a complaint may not be called to testify in a subsequent proceeding in relation to information disclosed during mediation, unless ordered or compelled by a court, tribunal or arbitrator.

16.5 Specific details of any investigation involving individuals including, but not limited to, the outcome will only be disclosed to those who require the information to execute their duties. Where applicable or as required by law, investigators may be required to disclose information about the investigation.

## 17.0 Reasonable Accommodation

17.1 The Board strives to be accessible and accommodating to all its constituents and is committed to providing reasonable accommodation for its constituents whose special needs relate to defined protected grounds under the Ontario Human Rights Code and set out in the *Definitions* sections of this policy.

## 18. Definitions

### 18.1 Adverse effect discrimination<sup>10</sup>

A situation that unintentionally singles out particular people and results in unequal treatment. It exists in a situation where a requirement, qualification or factor exists that is not overt discrimination but results in the exclusion of, restriction of or preference for a group of persons who are identified by one of the prohibited grounds.

### 18.2 Complainant

A person who is a member of the Board community that brings forward a concern and/or makes a formal or informal complaint (an allegation, whether oral or written, of harassment or discrimination under the policy).

### 18.3 Restorative practice<sup>11</sup>

Responds to a person's behaviour by focusing on repairing harm experienced by others and rebuilding relationships. This practice is used as part of progressive discipline to build, strengthen and help restore healthy relationships.

### 18.4 Respondent

A person against whom a complaint has been made.

### 18.5 Senior administrator

Anyone at the Board having sufficient authority to assume or ensure the taking of remedial action (e.g. Director of Education, Superintendent, Associate Director).

### 18.6 Support person

An person chosen by a complainant or respondent to accompany them to the meeting at the HRCO. A support acts solely as a support and does not act as an advocate. For unionized staff members, a representative is a union or federation executive member, from the bargaining unit to which the

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<sup>10</sup> Ontario Human Rights Commission. (n.d.). Forms of discrimination. Retrieved January 10, 2018, from <http://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability/6-forms-discrimination>

<sup>11</sup> Ministry of Education. Caring and Safe Schools in Ontario . (2010). Retrieved January 26, 2018, from [http://www.edu.gov.on.ca/eng/general/elemsec/speced/Caring\\_Safe\\_School.pdf](http://www.edu.gov.on.ca/eng/general/elemsec/speced/Caring_Safe_School.pdf)



employee belongs. For non-union staff members, a representative is a person from an association to which the employee belongs or a representative of the staff member's choosing that is acceptable to the Board. The following people may also provide support:

- parent/guardian or caregiver,
- school or department staff,
- union, federation or association representative,
- colleague, and
- translator/interpreter.

#### 18.7 **Witness**

Is a person who may have information about a matter into which the Board is conducting an investigation under the Human Rights: Code-Related Harassment and Discrimination policy and procedure.

#### 19.0 **Records of Complaint**

- 19.1 Records will be maintained in accordance with the [Records and Information Management](#) policy and procedure.

## 20. **Responsibilities**

20.1 The Director of Education shall:

- a) allocate staff and resources to support the Human Rights: Code-Related Harassment and Discrimination procedure.

20.2 The Director of Education, Associate Directors, Coordinating Superintendents, Superintendents of Education, Principals, Managers and Supervisors shall:

- a) support the implementation of the Human Rights: Code-Related Harassment and Discrimination procedure;
- b) communicate and review annually the Human Rights: Code-Related Harassment and Discrimination procedure with the staff members they supervise or manage;
- c) proactively respond to alleged or suspected situations and concerns of code-related discrimination and harassment; and
- d) support and participate in human rights training.

20.3 The Human Rights Commissioner shall:

- a) maintain an independent office and in this capacity;
- report directly to the Director of Education;
  - ensure Board compliance with the Human Rights Code and relevant case law;
  - support a working and learning environment that is respectful of human rights;
  - support and provide system direction in the application of the Human Rights: Code-Related Harassment and Discrimination policy and procedure;
  - oversee complaints management for, early resolution, investigations, restorative justices processes;
  - provide timely advice, guidance and consultative services on human rights matters and related issues to the Director of Education, Superintendents principals, managers and supervisors in responding to and supporting early/site-based resolution processes

- engages staff members when conducting investigations, where appropriate;
- ensures mediators notify parties that the information collected during mediation will not be used for future complaints;
- considers whether complaints reveal any broader systemic issues that the Board should address; and
- implement education programs to assist in furthering an working and learning environment free of discrimination and harassment.

20.4 Human Resources shall:

- a) Human resources services shall work with and refer complaints that are Code-Related to the Human Rights Office.

20.5 The Human Rights Commissioner's Office shall:

- a) support the implementation and awareness of the Human Rights: Code-Related Harassment and Discrimination policy and procedures;
- b) work with supervisory staff to promote the resolution of human rights issues;
- c) assist schools and departments in promoting human rights;
- d) support persons engaged in the early/site-based resolution process, mediation or a formal investigation, as appropriate;
- e) manage the formal complaint process; and
- f) address systemic discrimination and harassment issues.

20.6 All staff, students and community members of the York Region District School Board shall:

- a) understand and adhere to the Human Rights: Code-Related Harassment and Discrimination policy and procedure; and direct any anonymous complaints to the HRCO when appropriate;
- b) support the application of the Human Rights: Code-Related Harassment and Discrimination policy and procedure in all sectors of the Board;
- c) create and maintain an inclusive learning and working environment that respects human rights; and
- d) be aware of human rights issues and bring forward any concerns pertaining to discrimination and harassment to the HRCO when applicable.

## 21. History

*Formerly Policy 240.0, Respectful Workplace and Learning Environment*

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