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1. Policy

It is the policy of Lakehead District School Board adheres to the Ontario Human Rights Code in that all employees, students, prospective employees, Trustees, volunteers, visitors, parents, contractors and all other users that are involved with the Lakehead District School Board have the right to freedom from harassment because of sex/pregnancy, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status, disability, sexual orientation, gender identification, or gender expression. Harassment will not be tolerated.

1.1 Scope

This policy not only applies to complaints from victims of alleged harassment, but wherever there is a reason to believe that harassment is occurring. Examples are:

- where a person in a position of authority detects evidence of harassment within his or her own department or school;
- where harassment is witnessed; and,
- where, over a period of time, a series of complaints, although all resolved individually, are filed against the same person.

2. Definitions

For the purpose of this policy and corresponding procedures:

- 2.1 Human Rights Harassment means engaging in a course of a vexatious comment or conduct that is known to be or ought reasonably to be known to be unwelcome to an individual or group, whether intended or not, based on: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, gender identification, sexual orientation, age, marital status, family status, disability and/or record of offences.
- 2.2 Personal Harassment is defined as "offensive comments or actions which intimidate, demean, humiliate or coerce."
- 2.3 Sexual Harassment is defined as unwelcome conduct of a sexual nature that detrimentally affects the work environment including: "any sexual solicitations, advances, remarks or actions that are demeaning or intimidating."
- 2.4 Workplace is defined as any place where students, employees and other users work, learn or perform work or learning related duties or functions, including "all schools, Board property, Board offices, business trips, conferences, seminars, co-op placements, social and extra-curricular events that arise out of Lakehead District School Board involvement."

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2.5	<p>Student is any person, regardless of age, who is enrolled in any program offered by the Board.</p> <p>Employee includes all persons employed by the Board.</p>
2.6	<p>Record of offences means a conviction for:</p> <p>(a) an offence in respect of which a pardon has not been granted under the Criminal Records Act (Canada) and has not been revoked; or</p> <p>(b) an offence in respect of any provincial enactment.</p>
2.7	Other Users include all persons who are neither students nor employees while on Board premises or attending Board or school programs/functions at other premises in a business/social community relationship with the Board.
2.8	Gender Identity or Gender Identification means one's internal and psychological sense of oneself as being either male or female or neither. This identification is not related to sexual orientation.
2.9	Sexual Orientation encompasses the range of human sexuality, including who is desired to have as a partner, both sexually and emotionally.
2.10	LGBTTIQQ is a short form used generally to describe: Lesbian (a woman who forms sexual and emotional relationships with women), Gay (a man who forms sexual and emotional relationships with men), Bisexual (an individual who is attracted to and may form sexual and affectionate relationships with both males and females), Transgender (people who do not identify with the gender roles assigned to them based on their biological sex), Transsexual (people who present themselves and live in the gender opposite to what they were genetically assigned at birth. Transsexuals may have gender reassignment surgery to make their bodies fit their true gender), Two-spirited (term used by Aboriginal people to describe lesbian, gay, bisexual, or transgendered people), Intersex (people who are born with a combination of male and female anatomy), Queer (short for LGBTTIQQ, also a term used as an individual label and a positive socio-political movement related to LGBTTIQQ people), and Questioning (a term used by those who are in the process of questioning their sexual orientation and gender identity).
2.11	Heterosexual refers to an individual who forms sexual and emotional relationships with people of the opposite gender.
2.12	Heterosexism is the belief that heterosexual is the preferable or superior sexual orientation and is a form of homophobia.
2.13	Homophobia is the irrational fear and/or hatred of, aversion to or discrimination against people who are not heterosexual.

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- 2.14 Transphobia is an irrational fear of, and/or hostility towards, people who are transgender or who otherwise transgress traditional gender norms.

3. Guiding Principles

- 3.1 Employees, students and other users shall behave in a manner that is socially and professionally acceptable.

3.1.1 Victims of harassment can be anyone at any level of the organization or school system (e.g. student, peer, co-worker, supervisor, visitor, or volunteer). Throughout this document, complainant refers to the alleged victim of harassment.

3.1.2 Perpetrators of harassment can be anyone at any level of the organization or school system (e.g. student, peer, co-worker, supervisor, visitor, or volunteer). Throughout this document, respondent refers to the alleged perpetrator of harassment.

3.1.3 Examples of harassment may include (but are not limited to the following):

- unwarranted touching;
- requests for sexual favours, sexual advances, innuendos, or quid pro quo (the promise of something in return for something else);
- repeated unwanted social invitations or requests;
- expressions of bias or prejudice;
- off-colour jokes;
- remarks about an individual's appearance, race, ethnic origin, religion, sexual orientation, perceived sexual orientation or personal life situation;
- display of pictures, cartoons or graffiti that are offensive;
- inappropriate language;
- stalking; and/or
- threats of physical behaviour.

3.1.4 Some examples of what harassment is not:

- an occasional or casual compliment or remark;
- good natured jesting or flirting that is acceptable to all parties;
- normal exercise of supervisory responsibility, including direction, counselling, training, evaluation or discipline. This includes those duties required by teachers and other related educational employees of students (i.e., questioning about homework assignments, etc.); and
- any voluntary interactions between consenting employees.

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3.1.5 This policy is not intended to constrain positive social interactions in the workplace.

3.2 Employees, students and other users will strive to foster a respectful workplace through the prevention and prompt resolution of harassment. Complaints will be taken seriously and handled professionally.

3.2.1 Administrative Responsibilities:

- Administration will disseminate the harassment policy throughout the Lakehead District School Board;
- Administration will ensure that individuals who may be impacted by this policy have an awareness of the policy, their responsibilities under the policy and an understanding of the complaint resolution procedure;
- Administration will administer the policy according to the procedures, and will remain fair and objective during all stages of the investigation process; and
- to ensure professionalism and consistency, training may be provided for all investigators of harassment incidents.

3.2.2 Responsibilities of Students, Employees and Other Users:

- follow the applicable Code(s) of Conduct;
- treat all individuals fairly, and with dignity, while respecting and valuing differences in individuals;
- demonstrate courtesy and self discipline in actions and words;
- respect Board property and the property of individuals;
- stop behaviour if advised that it is inappropriate, unwelcome, etc.; and
- challenge harassment when it happens, and refuse to participate in potentially harassing behaviour.

3.2.3 Rights of Complainants and Respondents (not specifically set out in these procedures):

- to be kept up-to-date of the investigation process in a timely fashion;
- to be provided with a summary copy of the final report findings (for formal complaints);
- to have disciplinary/remedial sanctions imposed remain in confidence, and not disclosed to the complainant (or to the respondent in cases of malicious or bad faith complaints); and
- to be informed of the differences between the informal and formal investigation processes.

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3.2.4 A Complainant's Possible Choices of Action may include:

- consulting with a peer;
- confronting harasser;
- speaking to a union representative;
- approaching the Supervisor/Principal or other person in position of authority;
- approaching appropriate legal authorities e.g. Police, Ontario Human Rights Commission; and
- at his/her own expense, choose to contact a lawyer to discuss legal rights and/or civil action.

3.2.5 Whistleblower Protection: An employee or student of the Lakehead District School Board who comes forward in good faith with reports or concerns about compliance of this policy and or procedure shall not be subject to reprisal or retaliation for making such a report.

3.3 **INFORMAL COMPLAINT PROCESS** (see Appendix A and Appendix B)

The Board shall provide a mechanism for complainants to lodge an informal complaint.

3.3.1 The key to the informal resolution phase is that there is no formal investigation procedure. There is nothing in this process that would prevent a complainant from by-passing the informal resolution stage and proceeding directly to the formal investigation stage.

3.3.2 Complainants are encouraged to resolve their concerns first by confronting the respondent. If this does not result in the end of the harassment or if the complainant is uncomfortable confronting the harasser, alternate methods of reporting are available. Complainants are encouraged to keep a record of dates, times, places and witnesses of the harassment, as well as specific details.

3.3.3 If the complainant is not satisfied with the results of the above process, or is uncomfortable confronting the harasser, the harassment can be reported to a resource person (the Principal, Vice Principal, Supervisor, Manager or a union representative, if applicable).

3.3.4 Once the harassment has been reported, an informal resolution will be sought, (if appropriate) with the involvement of the appropriate Principal, Vice Principal, Supervisor, or Manager (e.g. complainant confronting respondent alone or with staff person, respondent apologizing to complainant).

3.3.5 The complainant will be informed of:

- the Board harassment policy and procedures;
- limits to the confidentiality of the process (see 3.6);
- the right to counselling provided by the Board;

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- the right to withdraw the complaint at any time;
- the right to representation by any person of their choice at any time during the process and/or in accordance with collective agreement provisions; and
- the right to initiate a formal written complaint.

3.3.6 The respondent will be informed of:

- the Board harassment policy and procedures;
- limits to the confidentiality of the process (see 3.6);
- the right to counselling provided by the Board;
- the right to representation at any time during the process by any person of his/her choice and/or in accordance with collective agreement provisions; and
- the nature of the allegation, and who has lodged the complaint.

3.3.7 Once the Principal, Vice Principal, Supervisor, or Manager of the respondent is made aware of the allegation, an attempt to resolve the conflict informally will be used. Informal resolutions can come about through communicating with the respondent.

3.3.8 If the complaint cannot be resolved informally, to the satisfaction of the complainant, the complainant can choose to lodge a formal written complaint, and therefore, proceed to the formal complaint stage.

3.4 FORMAL COMPLAINTS (see Appendix A and Appendix B)

The Board shall provide a mechanism for complainant to lodge a formal complaint.

3.4.1 Student complainants should send a written copy of the complaint, describing the incident(s), witnesses and steps already taken to resolve the matter, to their Principal or Vice Principal directly. If assistance is required in reporting the complaint, the student should contact the school administration directly, or through his/her representative (i.e. parent, teacher, etc.). If the Principal is the alleged harasser, then the complaint letter should be sent directly to the appropriate Superintendent.

3.4.2 Employee complainants should send a written copy of the complaint, describing the incident(s), witnesses and steps already taken to resolve the matter, to the appropriate Superintendent.

3.4.3 Other user complainants should send a written copy of the complaint, describing the incident(s), witnesses and steps already taken to resolve the matter, to the appropriate Superintendent.

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- 3.5 The Board shall provide a fair and objective formal process for dealing with alleged incidents of harassment.

Principals, Vice Principals, Supervisors, and Managers will adhere to the following procedures when dealing with a formal complaint.

3.5.1 Investigation Guidelines

- a) The investigation of any allegation of harassment must be consistent with current collective agreements and the doctrine of "procedural fairness".
- b) All complaints should be reported within six months of the most recent alleged harassing behaviour, though individual circumstances will be considered (e.g. if there has been a pattern of incidents involving a particular person). Prompt reporting is encouraged as it allows for more thorough and accurate investigations. Investigations will be conducted within a reasonable timeframe, respecting both the need for a prompt resolution and the need for a thorough and complete investigation.
- c) All information will be gathered and dealt with in accordance with the Municipal Freedom of Information and Protection of Individual Privacy Act. Records of investigation will be kept (3.5.5.5).
- d) All actions must be premised on the need to protect the parties involved in the situation.
- e) The lead investigator holds the files and maintains confidentiality, except where outside agencies have the right to information.

3.5.2 Formal Employee Complaints

- 3.5.2.1 Participants involved in the formal investigation procedure will include the complainant, the respondent, witnesses (if any), their representatives and/or in accordance with the collective agreement, and an investigator or investigation team. The investigator or members of the investigation team should not be directly involved with the complainant or respondent (i.e. in a direct report relationship). All efforts will be made to ensure that the investigator(s) is an impartial third party.
- 3.5.2.2 Once a formal written complaint is received, the appropriate Superintendent appoints an investigator or an investigation team, with an identified lead investigator.
- 3.5.2.3 The investigator/investigation team meets with the Principal/Supervisor/Manager to discuss the issue. All those

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involved will keep detailed notes pertinent to the investigation as outlined in "records of investigation" (see 3.5.5.5).

- 3.5.2.4 The investigator/investigation team will meet with the complainant to get clarification of issues that may be unclear, and inform the complainant of the information contained in section 3.3.5.
- 3.5.2.5 The investigator/investigation team will meet with the respondent in the absence of the complainant, and inform the respondent of the information contained in 3.3.6. A copy of the formal signed complaint will be submitted to the respondent, indicating: the name of the complainant and respondent, the places, times, dates and nature of the alleged incidents being investigated. A copy of the harassment policy and procedure will also be provided. The respondent may (at any stage of the investigation) respond to the allegations.
- 3.5.2.6 The investigator/investigation team conducts further fact finding meeting(s) to ascertain the severity of the situation, interview potential witnesses, etc.
- 3.5.2.7 Where an employee respondent has elected (in writing) not to accept representation from his/her union or employee group, the union or employee group will be informed by the investigator.
- 3.5.2.8 Once the investigator/investigation team has conducted adequate research, a final report of the investigation will be prepared, including the results of the fact finding meeting(s). A summary of the report findings will be provided to the complainant, respondent and the appropriate Superintendent. This summary will respect confidentiality to every extent possible.
- 3.5.2.9 Appropriate disciplinary/remedial sanctions are implemented. A record of the disciplinary actions will be placed in the employee's personnel file. It should be noted that the complainant will not be informed of the disciplinary sanctions imposed on the respondent.
- 3.5.2.10 Where a resolution cannot be reached, or if the complainant is not satisfied with the solution, an outside agency may become involved. The Board will cooperate as required with any external proceedings (i.e. Police, Human Rights Commission).
- 3.5.2.11 Should the complaint be determined to be malicious or in bad faith (unjustified), the complainant will be subject to the disciplinary actions as described in this procedure. All attempts will be made to

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minimize the damage done to the alleged respondent (i.e. to correct mistaken impressions, or control reputation damage).

3.5.2.12 Where a complaint has been investigated, Human Resources will maintain investigation records in accordance with 3.5.5.5.

3.5.2.13 Under Regulation 18(1) (b) of the Teaching Profession Act, a teacher must "on making an adverse report on another member, furnish that member with a written statement of the report at the earliest possible time and not later than three days after making the report."

3.5.3 Formal Student Complaints

3.5.3.1 Participants involved in the formal investigation procedure will include the complainant, the respondent, witnesses (if any), their representatives (if requested), and the Principal/Vice Principal.

3.5.3.2 Once a formal written complaint is received by the Principal/Vice Principal, the Principal/Vice Principal shall conduct an investigation. Records of the investigation will be kept by the Principal/Vice Principal (3.5.5.5).

3.5.3.3 The Principal/Vice Principal will meet with the complainant, and ask the complainant to describe, in as much detail as possible, the alleged incident(s). The Principal/Vice Principal will clearly document this meeting. The complainant may be accompanied by a support person (i.e. parent, teacher, peer support).

3.5.3.4 The Principal/Vice Principal will meet with the respondent in the absence of the complainant. A copy of the formal signed complaint will be submitted to the respondent, indicating: the name of the complainant and respondent, the places, times, dates and nature of the alleged incidents being investigated. A copy of the Harassment and Human Rights Policy and Procedures will also be provided. The respondent may (at any stage of the investigation) respond to the allegations. The respondent may be accompanied by a support person (i.e. parent, teacher, peer support, union representative if the respondent is an employee).

3.5.3.5 The Principal/Vice Principal will inform the parents/guardians of the involved parties if the student(s) are under the age of 18.

3.5.3.6 The Principal/Vice Principal conducts further fact finding meetings if necessary, to ascertain the severity of the situation, and to interview witnesses, etc.

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- 3.5.3.7 Once the Principal/Vice Principal has conducted adequate research, a summary of the findings will be prepared and provided to the complainant and respondent. This summary will respect confidentiality to every extent possible.
- 3.5.3.8 Appropriate disciplinary/remedial sanctions are implemented. It should be noted that the complainant should not be informed of the disciplinary sanctions imposed on the respondent.
- 3.5.3.9 Where a resolution cannot be reached, or if the complainant, and or his/her parents/guardians are not satisfied with the solution, an outside agency may become involved. The Board will cooperate as required with any external proceedings (i.e. Police, Human Rights Commission).
- 3.5.3.10 Should the complaint be determined to be malicious or in bad faith (unjustified), the complainant will be subject to the disciplinary actions as described in this procedure.

3.5.4 Formal Other User Complaints

- 3.5.4.1 Participants involved in the formal investigation procedure will include the complainant, the respondent, witnesses (if any), their representatives, and an investigator/investigation team.
- 3.5.4.2 Once a written complaint is received, the appropriate Superintendent will appoint an investigator/investigation team. The investigator or members of the investigation team should not be directly involved with the complainant or respondent (i.e. in a direct report relationship). All efforts will be made to ensure the investigator(s) are an impartial third party.
- 3.5.4.3 The investigator(s) will meet with the Supervisor/Manager to discuss the issue. All those involved will keep detailed notes pertinent to the investigation as outlined in "records of investigation" (3.5.5.5).
- 3.5.4.4 The investigator/investigation team may choose to meet with the complainant to get clarification on issues that may be unclear.
- 3.5.4.5 The investigator/investigation team will meet with the respondent in the absence of the complainant. A copy of the formal signed complaint will be submitted to the respondent, indicating the name of the complainant and respondent, the places, times, dates and nature of the alleged incidents being investigated. A copy of the Harassment and Human Rights Policy and Procedures will be

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provided as well. The respondent may (at any stage of the investigation) respond to the allegations.

- 3.5.4.6 If necessary, the investigator/investigation team conducts further fact finding meeting(s) to ascertain the severity of the situation, interview potential witnesses, etc.
- 3.5.4.7 Once the investigator/investigation team has conducted adequate research, a summary will be completed, and provided to the complainant and the respondent. This summary will respect confidentiality to every extent possible.
- 3.5.4.8 Appropriate disciplinary/remedial sanctions are implemented. It should be noted that the complainant should not be informed of the disciplinary sanctions imposed on the respondent.
- 3.5.4.9 Where a resolution cannot be reached, or if the complainant is not satisfied with the solution, an outside agency may become involved. The Board will cooperate as required with any external proceedings (i.e. Police, Human Rights Commission).
- 3.5.4.10 Should the complaint be determined to be malicious or in bad faith (unjustified), the complainant will be subject to the disciplinary actions as described in this procedure.
- 3.5.5 Possible Remedial/Disciplinary Actions
 - 3.5.5.1 For employees:
 - an oral or written reprimand and/or a letter in file;
 - counselling/training with an educational component focused on the impact of discrimination;
 - continuing the employee in his or her assignment with precautionary measures where appropriate;
 - transfer;
 - demotion;
 - assigning the employee to an alternate work situation;
 - suspending the employee without pay; and
 - dismissal.

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3.5.5.2 For students:

- an oral or written reprimand and/or a letter in OSR;
- counselling with an educational component focused on discrimination;
- informing parents where applicable according to Board policy (i.e. Freedom of Information restriction);
- suspension;
- transfer (class or school);
- expulsion; and
- other appropriate discipline as outlined in the Education Act, other Board policies, or applicable Code(s) of Conduct.

3.5.5.3 For other users:

- letter of disapproval and warning;
- revoking of permits or contracts;
- issuing a trespass notice; and
- other remedies as applicable by law.

3.5.5.4 The type of remedy/discipline should:

- be based on a thorough and proper investigation;
- take all relevant factors into consideration; and
- be in accordance with the principles of progressive discipline and just cause.

3.5.5.5 Records of investigation will include:

- the names of complainant(s) and respondent(s);
- the nature of the alleged harassment;
- a record of meetings, specifying meeting dates, times and names of attendees;
- a copy of any correspondence between parties;
- the present disposition of the complaint, including final resolution;
- a signed formal complaint (if applicable);
- any disciplinary action involved;
- background information gained through interviews, meetings, etc.;
- proper documentation required for both the informal process and the formal investigation; and
- Human Resources will maintain all investigation records in a confidential file.

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- 3.6 Confidentiality will be maintained to every extent possible, but it should be understood that the nature of the investigation may be expanded beyond the complainant(s) and the respondent(s) to verify factual information.
- 3.6.1 Information will only be disclosed by the Board to those necessary to the investigation. The Board cannot be held responsible for the actions of the complainant or respondent in relation to any outside agency. The Board may be legally required to provide information to an outside authority. As well, the Board may be legally required to speak to the respondent regarding the harassment and, where appropriate, take further action. It is because of these facts that absolute confidentiality cannot be guaranteed. All those that are involved with the investigation process must abide by the confidentiality guidelines.
- 3.6.2 Regardless of the outcome of the complaint, no action will be taken against a complainant unless it can be shown that the complaint was made maliciously or in bad faith.
- 3.6.3 Reassignment or relocation for the safety/security of individuals involved is not considered discipline.
4. These procedures shall be reviewed in accordance with Policy Development and Review Policy 2010.

<u>Cross Reference</u>	<u>Date Approved</u>	<u>Legal Reference</u>
Policy 7030	April 19, 1994	
Equity and inclusive Education 1020		Ontario Human Rights Code
Safe Schools – System Expectations 8070	<u>Date Revised</u> June 22, 2004 April 22, 2008 April 23, 2013	
Bullying Prevention and Intervention 8071		