



**SUPPORT DOCUMENT**

**FOR**

**WORKPLACE HARASSMENT**

June 2017

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## **INTRODUCTION**

The Support Document for Workplace Harassment is intended as additional information to the Board Policy Workplace Harassment.

The Ottawa Catholic School Board (OCSB) is committed to providing a work environment in which all employees are treated with dignity and respect. Workplace harassment will not be tolerated from any person.

The workplace encompasses all work activities occurring on OCSB premises or elsewhere while engaging in work activities.

The Workplace Harassment Policy and Procedure will be posted in a conspicuous location in the workplace and on the OCSB's website.

## **DEFINITIONS**

1. "Workplace harassment" means,
  - (a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought to reasonably be known to be unwelcome.
2. "Workplace sexual harassment" means,
  - (a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identify or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
  - (b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

"Vexatious conduct or comment" refers to actions or words that provoke, irritate, threaten, annoy, insult or demean, or result in some other form of discomfort.

"Workplace conflict" is defined as a sharp disagreement to opposing views and interests and can be caused by a personality conflict, poor communication and/or a lack of acceptance of others' views. Normal conflict between two people (usually short lived) is not harassment.

"Frivolous complaint" is a complaint that lacks serious purpose or sense. An investigation can be halted at any point should a determination be made that a complaint is frivolous in nature.

"Malicious complaint" is a complaint that results from malice; is deliberately harmful and spiteful and is motivated by wrongful, vicious, or mischievous purposes.

"Retaliatory complaint" is a complaint whereby an employee files a harassment complaint in response to a harassment complaint being filed against them. An investigation can be halted at

any point should a determination be made that a complaint is retaliatory in nature.

“The Complainant” is the employee who filed the complaint.

“The Respondent” is the alleged harasser.

## **TYPES OF INCIDENTS OF WORKPLACE HARASSMENT**

Harassment may, dependent upon the circumstances, consist of a single action or a series of incidents.

### **Bullying**

Bullying is defined as any planned behaviour whose purpose is to embarrass or humiliate and that attempts to undermine and erode a person's dignity and respect. These behaviours may include, but are not limited to, unwelcome acts, innuendoes or comments, either written, spoken, and/or by electronic messaging, use of physical gestures to mock or disadvantage a person that is intended to harm them psychologically or physically.

### **Gender-based Harassment**

Gender-based harassment is any unsolicited and/or unwanted statement, comments or actions that may include (a) remarks, jokes or innuendoes of a sexual nature; (b) persistent objectionable looks at a person's body; (c) crude and unwanted remarks about a person's clothing, body or social activities; (d) unnecessary and unwanted physical contact; and, (e) a sexual solicitation or unwelcome advance with or without direct reference to a person's job or employment status.

### **Hostile Work Environment**

A hostile (or poison/toxic) work environment may be created when an individual (target employee) is subject to constant harassment, badgering, unwarranted criticism or objectionable behaviour. It is typically created through interpersonal matters such as the way people treat others on the job and the conditions to which people expose others to at work. It tends to result from an ongoing pattern of behaviour rather than a solitary incident.

### **Racial/Ethnocultural Harassment**

Racial/Ethnocultural harassment may take the form of written, verbal, electronic messaging and/or physical actions that are perceived as derogatory statements, prejudicial actions, bigotry and/or hatred for a person or a group of persons based on their race, ancestry, place of origin, colour, ethnic origin, citizenship or belief. Racial/Ethnocultural harassment can be overt or subtle, intentional or unintentional, and may include, but is not limited to, the following behaviours: (a) physical or verbal abuse or threat; (b) demeaning comments, jokes, remarks, innuendoes; (c) display or distribution of racist pictures, graffiti or other derogatory material; (d) practical jokes or insulting gestures; and (e) exclusion, avoidance or condescension.

### Sexual Harassment

Sexual harassment is deliberate, unsolicited, unwelcome and personally offensive behaviour, comments, gestures or physical conduct of a sexual nature that creates discomfort, interferes with work effectiveness, invades the privacy or threatens the livelihood or status of an individual.

### **DUTIES AND RESPONSIBILITIES**

Supervisors are responsible for ensuring that all employees, including new employees, are aware of the policies and procedures pertaining to the workplace harassment policy and the consequences of engaging in harassment.

Supervisory Officers and Principals are responsible for ensuring that new appointees to managerial and supervisory positions are aware of their responsibilities under the workplace harassment policy and the related administrative procedures.

Supervisory responsibilities including: training, performance appraisal, direction, instruction, counseling and discipline do not constitute harassment as long as these are not being exercised in a discriminatory or intimidating manner. A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

### **DUE PROCESS FOR REPORTED INCIDENTS AND COMPLAINTS OF WORKPLACE HARASSMENT**

The Board will make every reasonable effort to ensure that no employee is subjected to harassment and will respond to any reported incidents and complaints under this policy in an impartial and timely manner.

If the incident or complaint involves a Superintendent, the Director of Education will investigate or an external person qualified to conduct workplace harassment investigations will be retained.

### Confidentiality

The Board will not disclose information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.

### Corrective Action

In the event of a harassing incident perpetrated by an employee, the OCSB will take appropriate corrective action which may include, but is not limited to: counseling and oral reprimand; mandatory attendance at a workshop(s) or course(s); written reprimand which will be placed on the employee's file; suspension with or without pay; demotion and/or relocation; or any other disciplinary action up to and including termination.

### Third Party Harassment

In the event of a harassing incident perpetrated by a third party (i.e. non-OCSB employee), the OCSB will take appropriate corrective action which may include, but is not limited to, a written warning, a trespass notice to the third party, police contact, or any other action the OCSB deems necessary to stop the behaviour.

### **REPORTING AN INCIDENT OR COMPLAINT OF WORKPLACE HARASSMENT**

All employees making a harassment complaint as per the following redress procedure will do so without fear of reprisal.

Although employees are encouraged to use the following redress procedure, employees have the right to file a complaint with the Human Rights Commissioner or seek redress through any other legal means at any time.

The Superintendent of Human Resources and/or her/his designate will assist and advise all concerned parties throughout the redress procedure.

Both the complainant and the respondent have the right to ask a person of their choice or a Union/Association Representative to be with them throughout the redress procedure.

Where a harassment complaint may result in disciplinary measures, the complainant should seek advice from her/his Union/Association Representative.

Movement from one step to the next in the Redress Procedure will occur at the request of the complainant if he/she is not satisfied that all concerns have been addressed.

### **REDRESS PROCEDURE**

#### Step I - Informal Complaint Procedures

- (a) The complainant will attempt to resolve the incident informally and will keep a personal record of any such efforts for future reference.
- (b) Informal measures should include:
  - i) where possible, making the unwelcome comment or conduct known to the respondent in a clear manner, verbally or in writing, and politely but firmly requesting that it stop;
  - ii) keeping a written record of the dates, times, incidents and witnesses;
  - iii) discussing the case and how it might be resolved with the complainant's supervisor, or with the next higher level of management, if the respondent is the complainant's supervisor; and,
  - iv) requesting that the supervisor, or the next higher level of management, if the respondent is the complainant's supervisor, convene and preside over a meeting of the complainant and the respondent to discuss and resolve the matter informally; and,
  - v) where the complaint involves two employees, if both parties agree, a OCSB-appointed mediator may be employed in an attempt to resolve the issues.

Depending on the nature of the complaint, the complainant may chose to move directly to Step II.

**Step II – Formal Complaint Procedures**

- (a) If the complainant is not satisfied that all concerns have been addressed at Step I, the complainant will submit a *Workplace Harassment Complaint Form*\* to the Superintendent of Human Resources. The report will include the name of the complainant, the name of the respondent, place, date, time, witnesses (if any) and details of the unwelcome behaviour. The Superintendent of Human Resources will forward the *Workplace Harassment Complaint Form* to an appropriate Investigator.

\*A verbal report may also be provided to the Superintendent of Human Resources or his/her designate. However, a written *Workplace Harassment Complaint Report* is the preferred reporting method.

- (b) Upon receipt of the *Workplace Harassment Complaint Form*, the Investigator will:

- i) acknowledge receipt of the complaint and advise the complainant of the investigation process and provide a copy of the OCSB Workplace Harassment Policy and Support Document;
- ii) advise the respondent of the complaint and provide a copy of the *Workplace Harassment Complaint Form*;
- iii) advise the respondent of the investigation process and provide a copy of the OCSB Workplace Harassment Policy and Support Document;
- iv) advise the respondent of their right to submit a written response, using the *Workplace Harassment Response Form*, and of the right to representation as per collective agreements;
- v) conduct an investigation into incidents and complaints of workplace harassment that is appropriate in the circumstances;
- vi) make reasonable efforts to interview any relevant witnesses who are not employed by the OCSB if there are any identified;
- vii) prepare and submit a written report to the Superintendent of Human Resources that includes a summary of efforts to resolve the situation, a summary of the interviews with the complainant, the respondent and any witnesses, and any other pertinent findings of fact; and,

- (c) The Superintendent of Human Resources will review the report, render a decision and advise the complainant and respondent, if he or she is an employee of the OCSB, in writing within ten (10) days of the investigation being concluded, of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation. The report must indicate the steps taken or that will be taken to prevent a similar incident of workplace harassment.

The investigation must be completed within 90 calendar days unless there are extenuating circumstances.

The OCSB reserves the right to relocate a complainant and/or respondent to another work location while the investigation takes place.

An employee can, if the investigation is not conducted by the OCSB, contact the Ministry of Labour and an Inspector of the Ministry of Labour may, in writing, order an investigation.

### **Step III - Appeals Process**

- (a) If the complainant is not satisfied with the decision rendered at Step II, the complainant may, within 10 days, submit a written letter to appeal the decision to the Associate Director of Education.
- (b) The Associate Director of Education will review the investigation report and resulting decision and render a decision.
- (c) The Associate Director's decision will be considered final and binding.

### **DISCIPLINARY ACTION**

Formal disciplinary action can be applied at anytime when it has been determined that harassment has occurred. Formal disciplinary action may include, but is not limited to:

- i) counseling and oral reprimand;
- ii) mandatory attendance at a workshop(s) or course(s);
- iii) written reprimand which will be placed on the employee's file;
- iv) suspension with or without pay;
- v) demotion and/or relocation; or
- vi) any other disciplinary action up to and including termination.

In cases of alleged severe harassment, an offender may be suspended, with or without pay, before all aspects of the case have been fully resolved.

All of the above disciplinary actions will be subject to the related provisions of Board collective agreements, and terms and conditions of employment.

### **PREVENTION**

Supervisors at all levels will make every effort to enforce the Board's policy on harassment, including:

- a) ensuring employees are fully aware of the Board's policy towards harassment and designated administrative procedures;
- b) ensuring employees are aware of their rights under the Ontario Human Rights Code as it relates to harassment;
- c) making every effort to prevent harassment;



- d) investigating promptly and taking appropriate corrective action as per these procedures should they become aware that an employee is being harassed;
- e) ensuring workplace harassment from all sources, such as customers, clients, employers, supervisors, workers and members of the public is not tolerated; and,
- f) ensuring the school-based Health & Safety Committees receives information and instruction on the workplace harassment program, including how to help a worker report an incident of workplace harassment, as well as resources available to a worker who has allegedly experienced harassment.

All employees will make every effort to encourage a harassment-free workplace by:

- a) becoming familiar with the Board's policy on Workplace Harassment;
- b) ensuring their conduct is in accordance with Board policy; and,
- c) following designated Board procedures, should a harassment incident occur.