



SIMCOE MUSKOKA CATHOLIC
DISTRICT SCHOOL BOARD

Professional Standards Workplace Harassment

Policy Number PS-04

The Simcoe Muskoka Catholic District School Board is a Catholic learning community dedicated to the creation of a work and learning environment that promotes mutual respect while honouring the dignity and value of all members of the School or Board's Community.

As such, the Board recognizes that all of these individuals have a right to work and learn in an environment free from harassment and discrimination, including sexual and workplace harassment.

All employees of the Board and all members of the School community have a responsibility to create, foster and maintain an environment where workplace and sexual harassment do not occur.

Brian Beal
Director of Education
February 07, 2017

Procedural Guidelines support this policy

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Procedural Guidelines Supporting Workplace Harassment

Policy Number PS-04

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SIMCOE MUSKOKA CATHOLIC
DISTRICT SCHOOL BOARD

INTRODUCTION

The Simcoe Muskoka Catholic District School Board is committed to creating and maintaining a workplace environment which fosters Christian values, integrity and professional conduct.

As reflected in its Mission Statement, and supported by Catholic principles and teachings, the Board recognizes the inherent right of all employees to receive fair and equitable treatment, in a workplace that demonstrates respect for the dignity and worth of each member of the organization.

In keeping with this commitment, and in accordance with the legal requirements as set out by the Ontario Human Rights Code and the Occupational Health and Safety Act, the Board has established policies and procedures for all staff, related to the issues of workplace harassment and inappropriate workplace conduct.

The purpose of this document is:

- To provide information and education for all employees, volunteers and elected officials of the Board, to the fact that workplace harassment and discrimination is prohibited under the laws of the Province, as well as contrary to Catholic teachings and values. In addition, inappropriate workplace conduct is also contrary to Catholic teachings and values.
- To identify the rights and responsibilities of all employees, volunteers and elected officials of the Board, in relation to this policy
- To establish measures to prevent and stop harassment by and against employees, volunteers and elected officials of the Board.
- To provide confidential (to the extent possible), impartial and effective procedures for responding to concerns of harassment or inappropriate conduct, respecting the rights of all involved parties.
- To provide effective responses to complaints, and appropriate consequences where findings of harassment or inappropriate conduct have occurred.

The Board will not tolerate harassment or inappropriate conduct in the workplace and will make every reasonable effort to prevent and eliminate conduct which falls within the scope of this policy.



SIMCOE MUSKOKA CATHOLIC
DISTRICT SCHOOL BOARD

SECTION A: POLICY AND DEFINITIONS

1. BOARD POLICY ON WORKPLACE HARASSMENT

The Simcoe Muskoka Catholic District School Board is a Catholic learning community dedicated to the creation of a work and learning environment that promotes mutual respect while honouring the dignity and value of all members of the School or Board's Community.

As such, the Board recognizes that all of these individuals have a right to work and learn in an environment free from harassment and discrimination, including sexual and workplace harassment.

All employees of the Board and all members of the School community have a responsibility to create, foster and maintain an environment where workplace and sexual harassment do not occur.

Board Policy Statement PS – 04



2. WORKPLACE HARASSMENT

2.1 Scope of the Policy

All persons employed by the SMCDSB, as well those carrying out Board business, are covered by the Policy. This includes teaching and non-teaching staff who are temporary, part-time and full-time employees. The Policy also applies to elected officials, members of boards and committees, student teachers and volunteers. Visitors to SMCDSB premises are also required to abide by this Policy.

The policy applies to all activities which take place on SMCDSB premises or connected to the workplace and during any employment-related duties or activities, including social functions, extra-curricular activities, field trips, conferences, training sessions, social media, travel and any board sponsored event and/or activity.

2.2 Employees' Rights and Responsibilities

Board Policy recognizes the right of every employee to a working environment that is free from harassment.

Each and every member of the organization is expected to assist in the implementation of this Policy, by abiding by this Policy and by conducting themselves in a manner which honours diversity, demonstrates professional conduct and mutual respect for others in the workplace.

Each and every member of the Board is also expected to participate, fully and in good faith, in any Informal Resolution Process or Formal Complaint and Investigation Process in which they have been reasonably identified as having potentially relevant information pertaining to a complaint of harassment.

2.3 Roles and Responsibilities of Supervisory and Management Personnel

All employees are expected to share in the implementation of this Policy, through understanding and acting in accordance with its content. It is important to recognize however, that those in positions of authority with staff carry more responsibility than other employees within our organization.

Under law, supervisory and management personnel have an obligation to make every reasonable effort to establish and maintain a workplace free of harassment.

Within our organization, this includes Board of Trustees, Education Leadership Council, Superintendents, Principals, Vice-Principals, Board Office Department Heads, Managers as well as those in other supervisory or management positions.

Related to this policy, their responsibilities include:

- acting as a role model for professional and respectful conduct
- ensuring employees have full access to information regarding SMCDSB Workplace Harassment Policy and Procedures
- intervening when he/she believes inappropriate conduct may have occurred even in the absence of a formal complaint
- respecting the rights of all parties to a fair, equitable and to the extent possible, confidential process for responding to complaints

3. LEGAL DEFINITIONS

3.1 Ontario Human Rights Code:

Workplace harassment is defined in the Ontario Human Rights Code (R.S.O 1990, ch. 19) as: “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.” Section 10(1) “Prohibited grounds” under the Ontario Human Rights Code include:

- race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identify, gender expression, age, record of offences, marital status, same sex partnership status, family status or disability.

Harassment related to “prohibited grounds” may occur when the behaviour or conduct in question:

- Would reasonably tend to cause offense, discomfort, humiliation or embarrassment to another person or group
- Would reasonably tend to be perceived as placing, either implicitly or explicitly, a condition on employment and its terms; or
- Has the purpose or effect of interfering with a person’s work performance or creating an intimidating, threatening, hostile or offensive work environment

Generally, harassment requires a “course of conduct”, which means that a pattern of behaviour or more than one incident is usually required for a finding of harassment to be made.

Depending upon the severity and impact of the behaviour, however, a single significant incident may constitute harassment, if it is found to be sufficiently offensive, threatening or intimidating.

With respect to gender, the Ontario Human Rights Code also states that everyone has the right to be free from sexual solicitation or advance and free from reprisal or threat of reprisal from the rejection of a sexual solicitation or advance in accordance with the Ontario Human Rights Code Section 7.3.

3.2 *Occupational Health and Safety Act* as amended (Bill 132)

Under Bill 132, which is in effect September 8, 2016 the definition of workplace harassment is as follows:

“Workplace harassment’ means

- a) Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or
- b) Workplace sexual harassment;

The Board recognizes that not all questionable conduct meets the definition of harassment and discrimination, as described by the Ontario Human Rights Code.

A course of unwanted and unwelcome behaviour may occur, that is not based upon any prohibited grounds, but nonetheless, would reasonably tend to cause offense, intimidation, discomfort, humiliation or embarrassment to another person or group. This type of conduct is considered prohibited and inappropriate in the Board’s workplace.

Such behaviour is also prohibited under the Board’s Workplace Harassment Policy and is in contravention of the *Occupational Health and Safety Act* as amended by Bill 132.

Situations involving a pattern of repeated, inappropriate conduct or personal harassment in the workplace, not related to prohibited grounds, may be considered within the scope of this Policy, only if the course of conduct is found to be hurtful, degrading, offensive, malicious, insulting, intimidating or humiliating, or unwelcome.

Again, dependent upon the severity and impact of the behaviour, a single significant incident may constitute a finding of prohibited, inappropriate conduct, if it is found to be sufficiently offensive, threatening or intimidating.

3.3 Examples of Harassment and Prohibited, Inappropriate Conduct:

Workplace harassment can take many forms. Although there can be no exhaustive list, examples of behaviour that may constitute harassment include, but are not limited to the following:

- unwelcome jokes, slurs, innuendoes or taunting
- verbal abuse or threats
- refusal to work with or cooperate with others for discriminatory reasons
- isolation or exclusion
- reduction, removal and/or withholding of work-related responsibilities for discriminatory reasons
- vandalism of property
- unwanted practical jokes which cause embarrassment and/or humiliation
- inappropriate communication via electronic mail
- attainment and distribution of improper information from the internet

- a pattern of insulting or derogatory remarks, gestures or actions related to a person's mannerisms, competence, physical appearance or other personal characteristics
- vulgar language or gestures
- bullying and intimidation through gestures, comments and behaviours
- public criticism or ridicule
- misuse of power or authority
- isolation and/or exclusion from work-related activities
- removal or reduction of professional responsibilities without reasonable cause

Examples of Sexual Harassment:

- sexually suggestive or obscene comments
- inappropriate touching, gestures or sexual flirtations
- leering or inappropriate staring
- unwelcome comments, discussion or questions about sexual activities
- display of sexually offensive pictures or objects
- derogatory remarks directed toward members of one sex
- inappropriate jokes of a sexual nature
- explicit propositions
- sexual assault (also an offence under the Criminal Code)
- inappropriate and unwanted comments about a person's body, dress or appearance
- persistent unwanted sexual contact or attention

Examples of Racial or Ethnic Harassment:

- remarks, jokes or innuendoes about a person's racial or ethnic background
- name-calling including derogatory racial or ethnic slurs
- the display or distribution of racist, derogatory or offensive pictures or graffiti
- refusing to work or interact with an employee because of her or his racial or ethnic background
- inappropriate comments or gestures about a person's racial or ethnic background
- threatening, vandalism, intimidation
- stereotypical jokes regarding the ethnicity of any racialized person

This type of inappropriate conduct, that is known or ought to reasonably known to be unwelcome, must also be measured against an objective standard of facts in order to determine whether or not the Board's policy has been violated.

3.4 Defining a "Poisoned Work Environment"

An employee may feel that the workplace is hostile or unwelcoming, because of insulting or degrading comments/ actions that have been made. Such comments or actions may be, but do not have to be, related to any of the prohibited grounds. When comments or conduct of this kind have a negative influence or negative impact on others and how they are treated, this is known as a "poisoned work environment."

Behaviour need not be directed at any one individual in order to create a poisoned work environment, a person can also experience a poisoned work environment even if he or she is not a member of a protected group.

A poisoned work environment cannot, however, be based only on subjective views. There should be objective facts that the comments or conduct infringes the Ontario Human Rights Code or constitutes workplace harassment or workplace sexual harassment as defined under the OHSA.

4. WHAT IS NOT CONSIDERED HARASSMENT OR PROHIBITED CONDUCT

Harassment does not include the normal exercise of supervisory responsibilities, including performance reviews, direction, counseling and disciplinary action where necessary, in accordance with SMCDSB policies and procedures.

Social interactions, jokes and bantering, which are mutually acceptable, would not be considered harassment, if the behaviour is respectful and there is no negative impact for others in the work environment.

Disagreements, misunderstandings, miscommunication and/or unresolved conflict situations also occur in the workplace, which can create a negative impact for the individuals involved. The Board recognizes that such situations can create discomfort or stress, yet they do not demonstrate the basis for a finding of harassment or prohibited conduct.

It is important to distinguish harassment from other forms of conflict and dispute, while still ensuring that appropriate efforts are made to address any situation of concern.

Unless there is evidence that demonstrates a pattern of offensive, inappropriate behaviour, as described earlier in Section A: 2-3 of this Policy, such situations may not constitute a basis for complaint of harassment or prohibited conduct.

Again, while such situations may not fall within the scope of this Policy, it is important that appropriate problem-solving measures be taken to resolve any conflict or concerns. In these circumstances, employees are encouraged to seek third party assistance from either their Principals, Vice-Principals, Supervisors, Managers, Union Representatives, or the Human Resource Department.

Please Note:

The Ontario Human Rights Code preserves separate school rights. Section 19(1).

As such, this policy and these procedures shall not be construed to or in any way have the effect of adversely affecting any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the Constitution Act, 1867, the British North American Act, 1867 and the Ontario Education Act.



SECTION B: PROCEDURES

5. WHAT TO DO IF YOU EXPERIENCE UNWELCOME, INAPPROPRIATE OR HARASSING BEHAVIOUR

If you experience conduct that is inappropriate or harassing or sexual harassing in nature, it is important to understand your options and to seek resolution to your concerns.

Employees are encouraged to pursue the course of action which they consider most appropriate and/or which they believe will be most effective in their situation.

While seeking resolution, employees are asked to respect confidentiality and dignity for all those involved. In the workplace, discussion of concerns should be limited to those directly involved in the situation and/or to those who may be assisting in the resolution process.

The following sections will describe available options and avenues for resolution:

5.1 Direct Dialogue

If you believe that you are being subjected to any form of inappropriate behaviour, wherever possible, ask for the behaviour to stop. In many cases, when the other person becomes aware that their conduct is unwelcome, or is having a negative impact, he/she will stop the unwanted behaviour.

Speak to the person calmly and professionally. Describe the unwanted behaviour in specific, factual statements and ask for the unwelcome behaviour to stop.

If however, you do not feel comfortable approaching the individual, or if your efforts to communicate are unsuccessful, there are several options available under the Policy.

Union representatives are available for each of its members, to provide information, guidance, advocacy and support. The Employee Assistance Program is also available, for confidential support and counseling. The Human Resources Department is available for confidential information and guidance with regard to the Board's harassment policies and procedures.

It is important to review the definitions of Workplace Harassment workplace sexual harassment and Prohibited, Inappropriate Conduct, to determine if either area of the Policy may have been contravened. Again, each employee is entitled to then select the course of action or option that they believe is most appropriate for their situation.

5.2 Process Options

If an employee believes that they have been subjected to Workplace Harassment as defined by Board Policy, they may choose to:

- Begin with an informal resolution process.
- If the matter is resolved, no further action is required.
- If the matter is not satisfactorily resolved, the employee may then proceed to a formal complaint and investigation process.
- Elect to go directly to a formal complaint and investigation process, if they believe that the situation requires this level of intervention.

While it is the employee's decision as to the course of action they wish to take, it must be noted that in situations where issues of harassment appear present, even if the employee does not choose to proceed with a complaint, SMCDSB has an obligation by law to explore the situation further.

As the employer, SMCDSB has a duty to respond and to take appropriate action, where there is evidence of workplace harassment or workplace sexual harassment.

To assist in clarifying the facts of each situation, employees are encouraged to document the details regarding unwanted behaviour. As soon as possible, make a record of the details of each incident, including the time, dates, names of those who were present, if any, and circumstances surrounding the incident.

Note also if you have spoken directly to the individual about unwanted behaviour, details of the dialogue and the individual's response.

Specific information related to the unwanted conduct is helpful to the resolution process, whether the informal or formal process is chosen.

6. INFORMAL RESOLUTION PROCESS

It is the Board's intent that employees have a choice of avenues and resources to contact regarding their concerns, in order to provide access to the most effective and timely response for each situation.

Through the informal resolution process, an employee with a concern regarding inappropriate or harassing behaviour may contact a third party resource of their choice, in order to discuss the situation in confidence and explore how the matter may best be resolved.

Third party resources include:

- Principal, Vice-Principal, Superintendent, Manager or immediate supervisor/manager
- Union representative
- Human Resources Department

Enquiries and discussions at this stage will be treated as confidential and the employee is under no obligation to file a formal complaint.

Within an informal resolution process, there is opportunity to discuss the details of incidents or concerns, review the details of the Policy and Procedures, then discuss problem-solving avenues.

Where appropriate, a third party resource may assist in facilitating voluntary discussions between involved parties, in order to assist the individuals in arriving at a mutually agreeable solution and to ensure that any inappropriate conduct or harassing behaviour has ended.

No formal written records are completed at this stage, although each person involved should keep documentation of discussions, outcomes and actions taken, if any.

Again, it remains the employee's decision as to which course of action they choose to take.

7. FORMAL COMPLAINT AND INVESTIGATION PROCESS

If informal routes of resolution are either unsuitable or unsuccessful, a formal investigation of the complaint will be conducted.

To initiate a formal investigation, the employee must provide a written complaint containing the allegations of harassment citing specific incidents including persons involved, dates, times, places and any other specific examples, to the Superintendent of Human Resources.

In the event that a complaint contains allegations regarding the Superintendent of Human Resources, the Director of Education will manage the formal complaint process.

An employee retains the right to withdraw their complaint, should they no longer wish to proceed with a formal investigation. Should an employee decide to withdraw their complaint, they must notify the Superintendent of Human Resources in writing.

It is understood however, that the SMCDSD may be required to continue its investigation, where there are indicators that inappropriate or harassing behaviour may have occurred.

In order to ensure impartiality and due process, a fact-finding investigation will be conducted in a timely and unbiased manner.

The investigation will be conducted by an external professional in appropriate cases and/or done internally if appropriate, as designated by the Superintendent of Human Resources.

The Superintendent of Human Resources shall forward a copy of the written complaint to the person named in the complaint within five working days (or as soon as practicable) of receipt of the complaint. The complaint must include specific incidents, dates times and places as filed by the complainant.

(Note: Teachers must comply with the regulations of the Teaching Profession Act.)

The investigation or fact-finding process will begin within fifteen days of the previous step, unless circumstances dictate otherwise.

When required, one or both parties to the complaint may be assigned to alternate duties for the duration of the investigation, with pay and without disciplinary penalty.

Every effort will be made to expedite the fact finding process unless circumstances dictate otherwise.

7.1 Investigation Procedure:

The investigator will conduct individual interviews with the complainant and respondent to the complaint, so that each person will have full opportunity to provide information related to the allegations. Additional information pertaining to the complaint may be provided through the investigator by both the complainant and the respondent so as to ensure the opportunity for full disclosure of information related to the allegations and concerns.

- Any individuals who have been witness to events, or who may be able to provide information directly relevant to the investigation, will also be interviewed.
- Both parties and all witnesses have the right to union representation during this process. Non-unionized staff may ask the Associate Superintendent of Human Resources for an agreed to third party representative to be present during their interviews and to provide support during the complaint process.
- Once all of the relevant information is gathered, the investigator will submit a confidential summary report to the Superintendent of Human Resources which will include the investigator's findings, conclusions and, if appropriate, recommendations regarding the appropriate action.
- During the course of the investigation the worker, the alleged harasser(s) and any witnesses will be instructed not to discuss the complaint or investigation unless necessary to obtain information regarding their rights under law.
- This confidential report will not be provided to any of the parties (complainant, respondent, witnesses, representatives) participating in the complaint procedure, unless required by law. In the event of 3rd party external investigations, disclosures may be required for the purposes of investigation or taking corrective actions with respect to an incident or complaint.
- Based on the factual findings and results of the investigation, the Superintendent of Human Resources shall make a determination as to whether or not the Board's policies have been violated and what actions are to be taken as a result of the findings.
- The complainant and respondent will be advised in writing as to the outcome of the investigation within 10 calendar days of the conclusion of the investigation.
- Information pertaining to the investigation will be kept in confidence with the Superintendent of Human Resources.
- Investigations will be completed within 90 days of initiation unless extenuating circumstances prevail.

7.2 Possible Outcomes of an Investigation

A formal investigation involves a thorough information gathering process, objective analysis, determination of fact and conclusions regarding the allegations made in the complaint.

The investigation may conclude with a finding of harassment or prohibited conduct; or it may conclude that there is an insufficient basis of information to support a finding of harassment or prohibited conduct, dependant upon the facts and analysis of information.

Where anyone is found responsible for workplace harassment or prohibited conduct, actions will be taken to change and eliminate any illegal or inappropriate behaviour.

Corrective measures may include, but are not limited to:

- Mediation
- Counselling
- Education and training
- Formal written apology
- Warning
- Change of work assignment
- Disciplinary action, in accordance with Board policy and procedures, up to and including dismissal.

If, as a result of the findings, disciplinary action is taken, this shall be noted on the employee's personnel file subject to any provisions in appropriate collective agreements or as required by law.

Corrective measures for visitors to SMCDSB premises may include, but are not limited to appropriate measures from the above list as well as:

- Administrative measures
- Denial of Premise Access

Any supervisory or management personnel who become aware of inappropriate conduct and fail to address it may also be subject to disciplinary actions, up to and including dismissal.

7.3 Time Frames for Filing a Complaint

The Board encourages employees to raise concerns of workplace conduct with the offending party, or with an appropriate third party resource, early in the dispute, before the situation escalates and when resolution is more easily attainable. An employee who believes that he or she is being harassed should raise their concern or complaint as soon as possible from the date of the alleged incidents.

Promptness in reporting a complaint protects the rights of both the person making the complaint and the person whose actions are in question.

In setting parameters for the complaint process, the Board adopts the time frame prescribed in the Ontario Human Rights Code, which suggests complaints should be filed within one year following an alleged occurrence of harassment or prohibited conduct.

7.4 Confidentiality

Confidentiality is a critical element to everyone involved in the complaint process. It allows the parties to resolve disputes in a private manner and protects them against unsubstantiated claims that might result in harmful gossip.

To protect the interests of all parties involved, confidentiality will be maintained throughout the complaint process to the fullest extent possible, again, subject to requirements of law. Every participant in this process is expected to maintain confidentiality throughout the process and thereafter. Only those who must be informed of the details will be involved, in order to effectively investigate the complaint.

There is no obligation or requirement to report incidents of alleged workplace harassment to the Joint Health and Safety Committee of the SMCDSB.

8. HOW TO RESPOND IF ALLEGATIONS OF INAPPROPRIATE CONDUCT OR HARASSMENT ARE MADE AGAINST YOU

If allegations are made against you, listen to the concerns of the other party. If your behaviour is inappropriate or harassing in nature, cease the unwelcome behaviour and offer an apology to the person(s) affected by your conduct.

If you believe that the allegations are unfounded, discuss the matter with your union representative, principal, manager, supervisor or the Human Resources Department, as may be appropriate to the situation. Review the Board's policy and procedures, including your rights within the process, and discuss your options in responding to the situation.

If a third party facilitator or external investigator is involved, provide them with information that is factual and specific regarding your response to the allegations. It is helpful to document your version of alleged incidents, detailing the names of the individual(s) involved, when and where incidents may have occurred, noting any witnesses, if applicable.

Knowing that such situations are stressful for all those involved, do not discuss the matter with others at work. Maintain a confidential and professional approach to the situation.

You may also wish to contact the Employee Assistance Program, for individual support and/or counseling.



Remember that allegations may not be confirmed in fact. Board policy and procedures are committed to ensuring that each party has full opportunity to present their side and that the rights and dignity of all parties are respected in the process.

9. OTHER CONSIDERATIONS

9.1 Protection from Reprisals or Retaliation

Retaliation is unlawful and will not be tolerated. Anyone who retaliates against a person for seeking assistance through this policy, or for filing a complaint, may be guilty of harassment and subject to discipline.

Protection from reprisal covers both complainants and witnesses who have participated in the Board process. Also protected from reprisal are third party resources, representatives, investigators and management responsible for decision-making functions within this process, acting in accordance with Board Policy and Procedures.

9.2 What Happens if Someone Files a False Complaint?

Because of the serious nature of a complaint, false accusations or abuse of this policy will not be tolerated. Knowingly filed frivolous or malicious complaints, or complaints that are found to be knowingly filed in bad faith will result in disciplinary action, up to and including dismissal of employment from the Board.

9.3 Additional Options

Through the Workplace Harassment Policy and Procedures, SMCDSB is committed to addressing and eliminating workplace harassment.

However, an employee always maintains the right to file a complaint with the Ontario Human Rights Tribunal, with the Ministry of Labour under the OHSAA or, if applicable, to file a grievance under the collective agreement.

10. AMENDMENTS

The Board reserves the right to amend the Policy and procedures at any time as required. The Policy will be reviewed as often as is necessary and at a minimum, annually.

11. POSTING

This policy and procedures shall be posted on the Board's website.