



The Northwest Catholic
District School Board
SCHOOLS OF HOPE

The Northwest Catholic District School Board

Section	Number	
G	1	7

ADMINISTRATIVE PROCEDURES

Title: HARASSMENT

Preamble:

It is expected that all employees of the Board will be free from harassment and intimidation. Actions or behaviours which are contrary to the *Ontario Occupational Health and Safety Act* and the *Ontario Human Rights Code* are serious matters and may involve, where appropriate, disciplinary measures. This procedure extends to all Board employees, contract employees, parents, students, volunteers and trustees, who are employed by or carry out business for the Board. The Northwest Catholic District School Board also recognizes that similarly, each of these groups has the right of freedom from harassment and discrimination in the workplace.

A. DEFINITIONS

1. Harassment

Harassment is defined as course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome, consisting of words or actions that disparage or cause humiliation.

- a) A “course” of comment or conduct usually requires more than one occurrence; however, it may include a single severe incident.
- b) A “vexatious” comment or conduct is defined as “annoying” or “distressing”. This involves an element of subjective standards which often must be judged by the merits of each individual complaint.
- c) “Comment or conduct” includes either behaviour or action. Jokes, insults, pictures and printed materials can constitute harassment as well as physical contact.
- d) A comment or conduct “that is known or ought reasonably to be known to be unwelcome” means that not only must the complainant find the behaviour vexatious but the violator either must have known or ought reasonably to have known it was unwelcome.

1. Workplace:

The workplace is any place where employees, contract employees, parents, students, volunteers, trustees and other users perform work or work-related duties or functions. Schools and school-related activities, such as extracurricular activities, field trips and excursions, comprise the workplace, as do Board offices and facilities. Conferences,

training sessions, school and board social activities, work related travel, work conducted electronically or by phone or in writing are included within this policy.

2. Workplace Sexual Harassment:

Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

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.

3. Discrimination:

Unfair treatment because of race, sex, colour, ancestry, place of origin, ethnic origin, marital status, sexual orientation, age, disability, citizenship, family status, record of offences, religion (creed), gender identity or gender expression.

4. Complainant:

The person who has made a complaint about another individual whom they believe committed an act of violence, discrimination, or harassment against them.

5. Respondent:

The person whom another individual has accused of committing an act of discrimination, or harassment.

6. What is not Harassment?

- a) The accepted social interaction or consensual relations between employees are not to be construed as harassment.
- b) Counselling, performance appraisal, work assignment, and the implementation of disciplinary actions are not forms of harassment, and this policy does not restrict a manager's or supervisor's responsibilities in these areas.

7. Outside Harasser

The Northwest Catholic District School Board recognizes that students and employees may be harassed by someone with a casual or infrequent connection to the Board or by someone over whom the Board may have no control. In such circumstances, The Northwest Catholic District School Board nevertheless recognizes its responsibility to support and help the person who has been harassed. The Board actively encourages anyone who has been targeted to report all incidents or harassment, regardless of who the alleged respondent may be.

B. Procedures:

1. Prohibited Grounds

Harassment because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (includes pregnancy, breastfeeding and gender), sexual

orientation, age, record of offences, marital status, family status or handicap is explicitly prohibited. It should be noted that in order for the harassment provisions of this procedure to apply, the activity at issue need not expressly refer to the person's race, place of origin, creed, etc. but need only be motivated by those considerations.

For example, a co-worker could be harassing another co-worker based on that co-worker's country of origin with the intent to discourage the worker from continuing employment in a particular position. These provisions are in accordance with the Ontario Human Rights Code. Application of Procedure will give due consideration to any unique constitutional rights that a Separate School Board may have under section 19(1) of the Ontario Human Rights Code.

2. Ought Reasonably to be Known to be Unwelcome

- a) In some situations it should be anticipated that comments or conduct that are motivated by race, sex, etc. would be offensive or unwelcome and there is not requirement that the behaviour be objected to before a violation of this procedure is found.
- b) Conduct or comments which may not, on their face, be considered offensive may still be "*unwelcome*" from the perspective of a particular individual. If the individual clearly indicates that this is the case, then a repetition of a similar type of activity will, in most instances, constitute harassment.
- c) It is also recognized that in some instance it would be unreasonable to require an individual, who may be in a vulnerable position, to object to the offensive treatment before being able to claim a right to be free from such treatment.

3. Poisoned Work Environment

- a) Abusive, offensive or threatening comments or conduct that may result in a "*poisoned*" work environment in which certain employees' rights to equal treatment, as guaranteed by the Ontario Human Rights Code, may be violated is prohibited. The Code looks to the impact of the comment or conduct on the individual, rather than the number of times the behaviour occurs, in determining whether a poisoned work environment has been created.
- b) These activities need not necessarily be directed at an individual employee; rather they may be directed at a particular group of people in general. They may include signs, caricatures and/or cartoons depicting members of a certain group in a demeaning manner. One does not have to be a member of a group targeted by the comment or conduct to experience a poisoned environment. An individual may have seen another person receive this unequal treatment or heard someone tell an offensive joke.
- c) A "*poisoned*" work environment is defined as a workplace in which the affected employees are subject to terms and conditions that are quite different from those experienced by individuals who are not subject to the same types of comments or treatment. The affected employees may experience fear, anxiety and/or humiliation. An example of a single action giving rise to a poisoned environment could be a statement made by a supervisor to employees that disabled persons in general, or members of a particular race, would not be suitable as principals because they are generally too complacent.

4. Racial Harassment

- a) Racial slurs, jokes and harassment which are forms of discrimination that tend to emphasize or define a relationship in which the parties are viewed as unequal simply on the basis of their race is prohibited.
- b) For the purposes of this procedure the term “*race*” should be read to include all of the race-related grounds, i.e. race, ancestry, place of origin, colour, ethnic origin, citizenship and creed.
- c) Racial epithets, comments ridiculing individuals because of race-related physical characteristics, religious dress, etc. or demeaning “*teasing*” or jokes related to race would in most instances be viewed as conduct or comments which “*ought reasonably to be known to be unwelcome*”.
- d) In circumstances where an individual is consistently treated in a less favourable manner, e.g. is repeatedly made the brunt of practical jokes or ridicule, an inference may be drawn from the particular circumstances that the treatment was racially motivated although the practical jokes or ridicule may not have contained any reference to race.

5. Sexual Harassment

a) Harassment Because of Sex

The Ontario Human Rights Code states that every employee has a right to freedom from harassment because of sex. This is interpreted to mean that the Board prohibits abusive conduct aimed at a certain gender which may result in a poisoned work environment.

b) Sexual Solicitation

The Ontario Human Rights Code states that:

- i) Every employee has a right to be free from a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- ii) A reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

This interpreted to mean that the Board prohibits conduct that is coercive in nature in which the perpetrator attempts to use leverage gained from the employment relationship to elicit sexual favours, or to press sexual demands. This kind of sexual harassment may be committed by a superior or the offence may also be committed by a fellow employee who has no particular advantage by rank, but who uses the proximity and opportunity provided by a shared workplace to press sexual requests which are unwelcome.

The following are some examples of what may constitute sexual harassment. The list is not exhaustive but is intended to assist persons identifying what may constitute

inappropriate behaviour.

- Comments about an individual's physical attributes
- Unwelcome physical contact
- Suggestive or offensive remarks or innuendoes about members of a particular gender
- Propositions of physical intimacy
- Verbal abuse, threats or taunting
- Leering or staring
- Bragging about sexual prowess
- Demands for dates or sexual favours
- Offensive jokes or comments of a sexual nature
- Display of sexually offensive pictures, graffiti, or other materials
- Questions or discussions about sexual activities
- Paternalism which undermines self-respect
- Rough and vulgar humour or language

C. GUIDELINES

1. Any employee shall have the right to lodge a complaint of harassment without fear of reprisal or threat of reprisal for doing so.
2. The Complainant is encouraged to keep personal notes on the events surrounding the alleged harassment including times, dates, locations, names of witnesses and to collect and retain any relevant documentation.
3. Nothing in this procedure prohibits, restricts or limits the rights of an individual to exercise his/her rights to file a complaint under the Human Rights Code, or through their union or federation. Complaints under the Human Rights code should be filed as soon as possible and in any case within six months of the date of the facts upon which the complaint is based.
4. Where any staff member is aware that harassment has occurred or is occurring, he/she is expected to report the incident(s) to the appropriate supervisor. When the staff member is a supervisor, he/she will take immediate and appropriate action to remedy the situation.
5. The Northwest Catholic School Board will protect this privacy so long as doing so remains consistent with the enforcement of this policy and adherence to the law. Confidentiality will be maintained throughout the investigatory process to the extent that is practicable and appropriate under the circumstances. However, confidentiality is to be distinguished from anonymity. A complainant who wishes to seek a remedy through this procedure must be prepared to be identified to the respondent and those involved in the resolution of the complaint. These provisions of confidentiality are meant to protect the complainant and the respondent.
6. Every effort will be made by the Board to ensure that everything is done that is fair and reasonable in the circumstances, to protect persons against complaints or accusations made by other staff members that are trivial, frivolous or made in bad faith. Complaints that are falsely made in an irresponsible and wilful fashion could result in the accused taking any legal action deemed appropriate. If it is determined by the Board that any employee has knowingly made false statements regarding an allegation of personal harassment, immediate disciplinary action will be taken.
7. Disciplinary action for harassment may take the form of one or more of the following

depending upon individual circumstances:

- a) a verbal warning which states the consequences should there be a recurrence, accompanied by a copy of the Board's Harassment Procedure;
 - b) a direction that the offender gives an oral and/or written apology;
 - c) a requirement that the offender provide a written statement that there will be no repetition of the offensive conduct;
 - d) a written warning which states the consequences should there be a recurrence, accompanied by a copy of the Board's Harassment Procedure;
 - e) a transfer;
 - f) a suspension;
 - g) dismissal;
 - h) students may be suspended or expelled;
 - i) others (visitors, volunteers, permit holders, contractors etc.) – access to Board premises may be limited or completely barred; a permit may be revoked or not renewed, or a contract may not be renewed; and
 - j) any other action deemed appropriate by the Director of Education.
8. Any disciplinary action taken under this procedure shall be consistent with the requirements of the Education Act, Regulations, the Teaching Profession Act or any collective agreement of which the alleged offender is a member.

D. COMPLAINT PROCEDURES

1. Step I

- a) The intent of this procedure is preventative not punitive; therefore initial efforts should be made to resolve complaints informally.
- b) A person who considers that she or he has been subject to harassment is encouraged to bring the matter to the attention of the person responsible for the conduct. It is sufficient for the individual to indicate to the respondent that the comments or conduct are unwelcome. When the person does not wish to bring the matter directly to the attention of the person responsible, or where such an attempt is not successful, the individual should proceed to Step II.

2. Step II – Informal Process

- a) Informal complaints of harassment will normally be made to the employee's immediate supervisor. If the complaint involves the employee's immediate supervisor, the complaint should be made to the supervisor's superior.
- b) Upon receiving a complaint of harassment, the supervisor or the supervisor's superior, as the case may be, will discuss the matter with both parties and attempt to affect a resolution that will provide a more comfortable work environment. The Supervisor/superior may consult the Superintendent of Education or designate for advice.
- c) If the complainant feels that a satisfactory decision has not been reached

he/she may file a formal complaint as outlined in Step III.

- d) If the respondent is not satisfied with the resolution of the complaint he/she may have the matter referred to the Superintendent of Education for a formal investigation as outlined in Step III.
- e) If the resolution of the complaint involves only an informal clarification of expectations and/or a verbal warning, the supervisor/superior will consider the issue settled without further action. If a written warning is issued a copy will be forwarded to the Director of Education and a copy will be placed in the employee's personal file.
- f) If the supervisor/superior believes the complaint requires further disciplinary action or is sufficiently serious in nature to warrant a formal inquiry the complaint should be forwarded to the Superintendent of Education or designate who will be responsible for a complete investigation as outlined in Step III. When forwarded to the Superintendent of Education or designate, the nature of complaint shall be accompanied by a detailed report of all discussions and finding to date.
- g) If the complaint is against the Director of Education, the complaint should be made to the Chair of the Board.

3. Step III – Formal Process

- a) All formal complaints of harassment must be submitted to the Superintendent of Education in writing.
- b) The Superintendent of Education or designate will confirm in writing to the complainant, receipt of the complaint within seven (7) working days.
- c) The Superintendent of Education or designate will forward a copy of the complaint to the respondent within seven (7) working days of receipt of the complaint.
- d) Upon receipt of a complaint of harassment, the Superintendent of Education or designate will investigate all aspects of the case as soon as possible by:
 - i) interviewing the complainant and preparing detailed notes of the incident to file.
 - ii) interviewing the respondent and preparing detailed notes of the incident to file; and
 - iii) interviewing any witnesses and preparing detailed notes of the incident to file;
- e) A written decision will be rendered, within 90 days of the complaint being filed, to the parties concerned as to whether or not there is evidence to support the allegation of harassment. If, upon receiving a complaint, the Superintendent of Education or designate determines that the conduct complained of does not fall within the definition of harassment or discrimination, the procedures outlined in this procedure do not apply. In that case, no investigation under this procedure will ensure.
- f) If the evidence supports the allegation of harassment, the complainant will receive written advice of the corrective action that will be taken to ensure the

behaviour or activity does not continue in the future.

- g) The Superintendent of Education will determine whether disciplinary action is required.
- h) The Northwest Catholic School Board will ensure that appropriate records of complaints and investigations relating to workplace harassment and sexual harassment are kept, including:
 - A copy of the complaint or details about the incident;
 - A record of the investigation including notes;
 - A copy of the investigation report (if any);
 - A summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace harassment and the respondent, if the respondent is a worker of the employer; and
 - A copy of any corrective action taken to address the complaint or incident of workplace harassment.
- g) If the complaint is against the Director of Education, the complaint should be made to the Chair of the Board.

4. Step IV – Review Process

If either the complainant or the respondent is not satisfied with the action taken, the matter may be pursued by:

- a) submitting a written request to the Director of Education, for reconsideration of the facts;
- b) submitting a written request to the Chair of the Board, for reconsideration of the facts, in the event the complaint is against the Director of Education;
- c) submitting a grievance for those employees covered by a collective agreement; and
- d) submitting a complaint to the Ontario Human Rights Commission.

5. Protection From Reprisals

It is intended that there will be protection from reprisals against those participating in the complaint process, including complainants, witnesses, representatives, investigators and decision-makers. Retaliation will be treated as seriously as an incident of harassment itself.

Employees will not be demoted, dismissed, disciplined, or denied a promotion, advancement, or employment opportunities because they rejected sexual advances or because they lodged a complaint when they honestly believed they were being harassed or discriminated against.

6. Seeking Immediate Assistance

Canada's *Criminal Code* addresses violent acts, threats, and behaviours. The police will be contacted immediately when an act of violence has occurred in the workplace or when someone in the workplace is threatened with violence. If an employee feels threatened by a co-worker, volunteer, contractor, student, vendor, visitor, client, or

customer, an immediate call to “911” is required. The following may constitute criminal behaviour and should be reported to the police:

- Displaying hate based graffiti or pornography
- Transmitting or storing electronic telecommunications that incite hatred and violence or pornography
- Displaying symbols or emblems (*including clothing) that suggest racial supremacy and incite hatred and violence
- Stalking (persistently pursuing an a particular individual although the advances are clearly unwelcome)
- Sexual assault or threat of sexual assault
- Gay-bashing, LGBT-bashing (hateful attacks of any form, based on the target’s real or perceived sexual orientation)

7. The Right to Refuse Unsafe Work

The right to refuse unsafe work is a legal right of every worker provided by the *Occupational Health and Safety Act*. The Northwest Catholic School Board is committed to ensuring a safe workplace. If you wish to pursue this right, please refer to the Health and Safety Procedure.

Cross Reference to Administrative Procedures/Governance Policies		Date of Implementation March 22, 2003	Legal/Ministry of Education Reference
			Education Act Section 301, 283, 264, 265
Section G	Number 04	Date of Last Review June 17, 2017	MFIPA
G	13		Ont. Human Rights Code S.5(2) & S.7
			Safe Schools
			Ontario Occupational Health and Safety Act
			Union / Federation Collective Agreements
			PPM 144,145,119
			Police Protocol