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## Workplace Harassment/Discrimination Prevention

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**Memo To:** All Staff

**From:** Director of Education

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### **ACCESSIBILITY:**

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### **PURPOSE:**

This policy promotes and supports a respectful, safe workplace that honours the God-given dignity and worth of each person. It is designed to provide specific options to deal in a timely manner with harassment or discrimination in the workplace.

### **REFERENCES:**

- Ontario Health and Safety Act
- Ontario Human Rights Code
- Canadian Charter of Rights and Freedoms
- Criminal Code of Canada
- Ontario Municipal Freedom of Information and Protection of Privacy Act
- Ontario Teaching Profession Act
- The Ontario Education Act
- Ontario Health & Safety Act
- Employment Standards Act

### **FORMS:**

- N/A

### **REPORTS:**

- N/A

### **APPENDICES:**

- Appendix A: Investigation and Resolution Procedures - Workplace Harassment or Discrimination
- Appendix B: Flowchart - Harassment or Discrimination Procedures
- Appendix C: Overview of Harassment or Discrimination in the Workplace – Gender, Sex, Sexual or Ethnocultural
- Appendix D: Definitions - Workplace Harassment or Discrimination
- Appendix E: Websites and Foundational Documents - Workplace Harassment or Discrimination
- Appendix F: Contributors - Workplace Harassment or Discrimination



## COMMENTS AND GUIDELINES:

This policy addresses issues of harassment and discrimination between employees, as well as between employees and parents, volunteers, students, trustees, service providers and other members of the public. Procedures to deal with alleged harassment and discrimination by an employee or trustee are identified separately from those dealing with individuals outside the employment of the Waterloo Catholic District School Board (WCDSB) i.e., parents, volunteers, students, service providers, and other members of the public.

The Ontario Human Rights Code and the Occupational Health & Safety Act define harassment as “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”. Comments or behaviours that occur inside or outside the workplace that create a ‘poisoned work environment’ and/or violate the employee’s inherent right to equal treatment and freedom from harassment or discrimination will not be tolerated. Workplace harassment is understood to mean any unwelcome action that offends, intimidates, humiliates or degrades an individual or creates a hostile or poisoned work environment. Physical, psychological, verbal or written forms of harassment or discrimination are prohibited.

## Statement of Commitment

The WCDSB is committed to fostering a safe, supportive, inclusive, learning and welcoming work environment free of harassment or discrimination. This is a commitment whereby all Board employees and trustees are treated with respect and dignity, in accordance with its shared beliefs, mission, vision and under the Ontario Human Rights Code and the Occupational Health & Safety Act.

Workplace harassment will not be tolerated from any person in the workplace, **including employees, managers, supervisors, parents, volunteers, students, trustees, service providers and other members of the public.**

The WCDSB will:

1. Promote social change through a greater awareness and understanding of harassment and discrimination in the workplace (e.g., copies of policy, posters, in-services and website).
2. Conduct timely investigations of complaints or incidents. The procedures outlined in this policy identify the specific timelines throughout the investigation.
3. Consider disciplinary action for employees or censure for trustees who discriminate against or harass other employees or trustees.
4. Consider any situation of intimidation or reprisal by a respondent (including a supervisor) against a claimant (or a witness) to be workplace harassment.
5. Handle all reports and documentation gathered under this policy in accordance with the Municipal Freedom of Information and Protection of Privacy Act, 1990.

## OUR MISSION AND VISION

### Mission

“As disciples of Christ, we educate and nurture hope in all learners to realize their full potential to transform God’s world.”

### Vision

Our Catholic Schools: heart of the community -- success for each, a place for all.”

## Guiding Principles and Expectations for Ethical Behaviour

Each member of the WCDSB shares in the responsibility to contribute to a community that concretely reflects mutual respect, equity, fair treatment and reverence due all persons created in the image of God. Equity demands a 'faith that does justice' as it promotes workplace environments in which all persons are treated with utmost dignity. Workplace harassment or discrimination is unethical and unacceptable in a Christian community. It is critical that each member's ethical behaviour in the workplace demonstrates an intolerance of any form of harassment or discrimination that demeans the dignity and worth due all persons. All Board employees and trustees share in the responsibility to ensure and maintain a workplace free from harassment or discrimination.

(Jesus) answered, "You shall love the Lord your God with all your heart, and with all your soul, and with all your strength, and with all your mind; and your neighbour as yourself."

**Luke 10:27**

For the whole law is summed up in a single commandment, "You shall love your neighbour as yourself."

**Galatians 5:12**

Love one another with mutual affection; outdo one another in showing honour.

**Romans 12:10**

To speak evil of no one, to avoid quarreling, to be gentle, and to show every courtesy to everyone.

**Titus 3:2**

Human persons are willed by God; they are imprinted with God's image. Their dignity does not come from the work they do, but from the persons they are.

**St. John Paul II, Centesimus Annus no. 11**

[The] human journey is best understood within the context of relationship. It is accomplished in community, in solidarity with brothers and sisters in the Church and beyond.

Ontario Catholic School Graduate Expectations, **Institute for Catholic Education**

## Rationale

A workplace that is safe, supportive, inclusive and free of harassment and discrimination is everyone's responsibility including the employer, employees and the employee unions/associations and trustees.

It is the collective responsibility of our community to strive for the fulfilment of our Mission and Vision.

### **Preamble to Ontario Human Rights Code, 1990**

It is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province.

### **Preamble to Ontario Ministry of Labour, Workplace Violence and Workplace Harassment, 2016**

Everyone should be able to work in a safe and healthy workplace.

As of September 8, 2016, employers have additional duties with respect to workplace harassment, including a requirement to appropriately investigate workplace harassment incidents and complaints.

### **The Ontario Human Rights Code states that:**

#### **Employment**

5. (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

## **Harassment in Employment**

5. (2) Every person who is an employee has the right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

## **Harassment Because of Sex in Workplaces**

7 (2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by his or her employer or agent of the employer or by another employee. R.S.O. 1990, c. H.19, s. 7 (2); 2012, c. 7, s. 6 (2).

## **Sexual Solicitation by a Person in Position to Confer Benefit, etc.**

7. (3) Every person has a right to be free from,

(a) 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

(b) 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. R.S.O. 1990, c. H.19, s. 7 (3).

The Ontario Human Rights Code and the Occupational Health and Safety Act require that all complaints of harassment undergo an investigation that is appropriate to the circumstances. When a complaint of alleged harassment or discrimination by an employee against an employee is lodged, resolution will be achieved through the steps outlined in the Workplace Harassment and Discrimination Investigation & Resolution Procedure - Employee Related Complaints Section. When a complaint of alleged harassment or discrimination is lodged by employees arising out of conduct by individuals not employed by the WCDSB, such as a parent, guardian, volunteer, student, service provider or other member of the public, resolution will be achieved through the steps outlined in the Workplace Harassment and Discrimination Investigation & Resolution Procedure - Non Employee Related Complaints Section. Dealing with allegations of workplace harassment/discrimination is difficult and the steps in this policy and procedure must be taken with sensitivity, integrity and care.

All employees, parents, volunteers, students, trustees, service providers, and other members of the public are expected to uphold and abide by this procedure and to refrain from any form of harassment or discrimination. It is the responsibility of every person to whom this procedure applies to do their part in creating and contributing to a climate of mutual understanding and respect for the rights, worth, and dignity of each individual.

This procedure is not intended to interfere with the legitimate and reasonable management actions and responsibilities of a supervisor to an employee regarding his/her work performance or competency. Reasonable management actions include but are not limited to changes in work assignments, scheduling, job assessment, evaluation, workplace inspections, implementation of health and safety measures, training and disciplinary action.

## **Workplace Harassment or Discrimination may be (but is not limited to):**

1. Differential treatment and/or vexatious conduct based on any of the grounds protected under the Ontario Human Rights Code
2. Making remarks, jokes or innuendos that demean, ridicule, intimidate or offend
3. Verbal, written (including electronic communication) or non-verbal actions in the workplace that are intended to frighten someone
4. Displaying or circulating offensive pictures or materials in print or electronic form
5. Bullying
6. Continuous and ongoing escalation of work demands not related to legitimate work-related tasks that are designed to cause distress or intimidation
7. Verbal or non-verbal taunts

8. Insulting remarks or slander
9. Mocking an individual's mannerisms or speech
10. Repeated offensive or intimidating phone calls or emails
11. Workplace sexual harassment
12. Consistent, deliberate shunning, excluding or marginalizing a colleague
13. Intimidation or reprisal of a complainant by a colleague or a supervisor
14. Stereotyped criticism of a group of employees

Gender, sex, sexual and ethnocultural harassment or discrimination are forms of workplace harassment or discrimination. For more information and examples of these specific forms of workplace harassment or discrimination please see Appendix C – Overview of Harassment or Discrimination in the Workplace – Gender, Sex, Sexual or Ethnocultural (APS024-CX).

**Workplace Harassment/Discrimination is not (this list is not exhaustive):**

1. The proper exercise of supervisory responsibilities (Education Act, Employment Standards Act, Ontario Human Rights Code, 1990, CH.H. 19, S(10), Occupational Health and Safety Act)
2. Disciplinary action that is legitimate and warranted (e.g., work consistently left unfinished)
3. Investigation of and or feedback regarding legitimate work competency or performance concerns, or attendance related issues.
4. Mutually acceptable joking that is appropriate and not offensive to others
5. Mutually acceptable teasing that is appropriate and not offensive to others
6. Discussion with an employee by a supervisor regarding substantiated instances of negative attitude(s) toward another employee
7. Employee to employee discussion that involves issues that are appropriate for discussion in the workplace.
8. The employer's request for specific information pertaining to job performance and attendance

**Note:**

Anyone who has been discriminated against based on the prohibited grounds set out by the Ontario Human Rights Code may file a complaint with the Tribunal. Applications must be filed within one year of when the alleged discrimination happened. The Tribunal can hear a late application if it is satisfied the delay occurred in good faith and it will not cause substantial harm (prejudice) to the other parties. The Tribunal encourages all complainants to exhaust all procedures otherwise reasonably available to them by their employer.

**Denominational rights**

The WCDSB is a separate school board that has constitutional status. The WCDSB is constitutionally mandated to provide education in a school setting that is reflective of Roman Catholic theology, doctrine and practices. The limits of this mandate are determined by the application of the Canadian Charter of Rights and Freedoms. The right of a separate denominational school system is guaranteed by Section 93 of the 1982 Constitution Act to Roman Catholics in Ontario.

In addition, the Ontario Human Rights Code provides that:

**Separate school rights preserved**

S. 19 (1) This Act shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate schools or their supporters under the Constitution Act, 1867 and The Education Act. R.S.O. 1990, c. H.19, s. 19 (1).

Accordingly, WCDSB reserves the right to determine the eligibility of candidates to positions of classroom instruction, based, in part, on the candidates' ability to demonstrate that the candidate is a practising Catholic and abiding by the teachings of the Catholic Church.

## Afterword

As a Catholic board it is with great joy that we try each day to live out our Mission Statement: “As disciples of Christ, we educate and nurture hope in all learners to realize their full potential to transform God’s world.” First, we acknowledge that Jesus is the model for all that we are called to be and do as a Catholic community. We accept the privilege to educate and nurture hope in ALL learners. The Catholic vision is one of fundamental inclusion – ALL are “Called to Belong”!

Our Vision Statement states that our Catholic Schools are the heart of the community where there is success for each and a place for all. We believe that all individuals are made in the image and likeness of God and have unique gifts and talents that we are called to nurture and help grow. We also believe that there is a place of Belonging for all God’s children in the WCDSB community.

The beautiful Mission and Vision statements are the ideal to which we are called. The Gospel is the source and foundation of both statements. In the Gospels, Jesus presented us with his vision for God’s world and modeled tirelessly working at his mission! Therefore, the Gospel is the foundational beacon we use to live, move and grow. We are not there yet we are striving. We sadly acknowledge that there are those among us who hurt because of the gap between where we are and where we are called to be. While this saddens us, it also strongly motivates us to strive to transform our little part of God’s world into a place where there is indeed success for each and a place for all!

O God who does reveal Your Almighty power chiefly in showing mercy and pity; increase Your mercy towards us that we, seeking the way of Your promises, may be made partakers of Your heavenly treasures.

Gelasian Roman Missal 5<sup>th</sup> to 7<sup>th</sup> Century