

ADMINISTRATIVE PROCEDURE 405

Respect in the Workplace: Anti-Harassment & Discrimination

Under the Ontario Human Rights Code, every individual has a right to equal treatment in the workplace, free from harassment and discrimination. The Limestone District School Board is committed to providing a work and learning environment that promotes and fosters respect, diversity, equity, and dignity for every individual.

Harassment and discrimination adversely affects workplace and individual well-being. The goal of this procedure is therefore to create a climate of understanding and mutual respect through increased awareness, early problem resolution and the use of mediation such that each person feels a part of the LDSB community and is able to contribute fully to our core mission of preparing students to face a changing world as life long learners, and informed responsible citizens, in a safe, inclusive and dynamic environment.

The Limestone District School Board will not tolerate, ignore, or condone any form of discrimination or harassment and is committed to promoting appropriate standards of conduct at all times. All employees are responsible for respecting the dignity and rights of their co-workers and the students they serve. Discrimination and harassment are serious forms of employee misconduct, which may result in disciplinary action up to and including dismissal.

1.0 WORKPLACE HARASSMENT & DISCRIMINATION

- 1.1 Dealing with harassment can be a complex matter given that what one individual may deem to be appropriate behaviour, another individual may deem as harassment. That being said, it should be noted that the proper exercise of one's authority or responsibility does not generally constitute harassment.
- 1.2 The Ontario Human Rights Code provides every person in the workplace the right to freedom from harassment and discrimination based on race, ancestry, place of origin, citizenship, creed, colour, ethnic origin, sex, sexual orientation, record of offences (criminal conviction for a provincial offence, or for an offence for which a pardon has been granted), gender identity, gender expression, age, marital status, family status, same sex partnership status, record of offences and disability.
- 1.3 The Board goes beyond these requirements by addressing other types of workplace harassment and objectionable behaviours that are not related to the grounds prohibited under the Code, such as personal harassment, which may include rude, degrading or offensive remarks or e-mails, threats or intimidation; union or staff association, and political affiliation.

2.0 ROLES AND RESPONSIBILITIES

2.1 An educational community is a place that promotes responsibility, respect, civility and academic excellence in a safe learning and teaching environment. Within this environment, everyone is responsible for:

- Respecting differences in people, their ideas and opinions;
- Treating one another with dignity and respect at all times, particularly when disagreement occurs;
- Respecting the rights of others;
- Demonstrating proper care and regard for Board property and the property of others;
- Demonstrating honesty and integrity; and
- Respecting the learning and working environment.

2.2 This procedure applies to all aspects of the employment relationship and therefore includes all Board employees, Trustees and volunteers. All staff is expected to abide by this procedure and the Ontario Human Rights Code by refraining from any form of harassment and discrimination and by fully cooperating in any investigation of a harassment or discrimination complaint.

2.2.1 Any member of the public, including parents/guardians, visitors to Board facilities or individuals conducting business with the Board, are expected to adhere to this procedure, including refraining from harassing employees, students, elected officials, and persons acting on behalf of the Limestone District School Board. If such harassment occurs, the Director of Education, or designate, will take appropriate steps to ensure a harassment-free workplace, including barring the harasser from its facilities, where appropriate, or discontinuing business with contractors or consultants.

2.3 Management staff, including senior managers, school administrators, departmental managers and supervisors, and human resources staff have obligations under the Code as well as this procedure. Under the Code, management can be held personally liable for failing to take appropriate action. All management staff is expected to follow the general responsibilities set out below with respect to human rights:

- Provide leadership in creating and maintaining harassment-free, respectful workplaces, including being aware of and sensitive to workplace dynamics and taking appropriate action upon becoming aware of discriminatory and/or harassing conduct
- Not engaging in behaviour that would constitute discrimination or harassment under the procedure
- Educating employees of the procedure, including roles and responsibilities and establishing and enforcing standards of appropriate workplace conduct

- Having thorough knowledge of the procedure
- Being able to clarify what constitutes harassment and discrimination
- Being able to advise staff of their rights and responsibilities under the procedure
- Taking all reasonable steps to deal with alleged workplace discrimination and harassment that they are aware of or reasonably should have been aware of (even if a direct complaint has not been made), in a timely fashion while maintaining as much confidentiality as possible
- Where discrimination or harassment occurred, monitoring the situation after a complaint to ensure the harassment or discrimination has stopped, implementing appropriate measures to prevent reoccurrence and supporting individuals who have been targets of harassment or objectionable behaviour
- Consulting with Human Resources where there may be a perceived or real conflict of interest in addressing an alleged procedure violation or for assistance with a human rights issue

2.4 Human resources will provide leadership and advice in exploring allegations of harassment and discrimination. All complaints to Human Resources will be dealt with in an unbiased, confidential and impartial manner, the goal being to prevent, correct and remedy harassing and/or discriminating behaviours that are contrary to the Procedure. To this end, Human Resources will:

- Interpret and implement this procedure
- Integrate equity principles into all human resources activities
- Remove barriers in employment procedures and practices that may have the effect of discriminating against specific groups or individuals
- Identify and address perceived or real conflicts of interest in responding to an alleged violation of this procedure
- Monitor selection processes to ensure that they are barrier-free
- Assess the merits of a complaint and determine the appropriate complaint investigation and resolution options, including whether concern(s) can be referred to site/departmental management to address
- Lead neutral, independent workplace investigations (formal or informal)
- Arrange for neutral third-party mediation services, where appropriate
- Provide training for managers and employees on Harassment and Discrimination in the Workplace

2.4 Employees will:

- Be familiar with their rights and responsibilities under the procedure and the Ontario Human Rights Code

- Refrain from engaging in behaviour that would constitute discrimination or harassment under the procedure
- Identify concerns as soon as possible if you believe you have been discriminated against or harassed
- Document details of harassment and/or discrimination that are experienced or witnessed
- Cooperate in interventions and investigations to resolve human rights and harassment issues
- Maintaining confidentiality related to human rights investigations
- Be encouraged to report incidents of harassment, discrimination or retaliation that they witness

3.0 DEFINITIONS

- 3.1 *Allegation* An allegation is an unproven assertion or statement based on a person's perception.
- 3.2 *Complainant* The person or persons alleging that discrimination or harassment occurred.
- 3.3 *Discrimination* Is any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group because of personal characteristics or circumstances unrelated to the person's abilities or the employment or service issue in question (e.g., disability, sex, race, sexual orientation). Discrimination may arise as a result of direct differential treatment or it may result from the unequal effect of treating individuals and groups in the same way. Either way, if the effect of the behaviour on the individual is to withhold or limit full, equal and meaningful access to services, facilities, employment, or contracts available to other members of society, it is discrimination.
- 3.4 *Duty to Accommodate* The legal obligation of an employer to take steps to eliminate disadvantage caused by systemic, attitudinal or physical barriers that unfairly exclude individuals or groups protected under the Ontario Human Rights Code. It also includes an obligation to meet the special needs of individuals and groups protected by the Code unless meeting such needs would create undue hardship. Failure to accommodate a person short of undue hardship is a form of discrimination.
- 3.5 *Employee* For the purpose of this procedure, the term employee includes: full-time, part-time, temporary, probationary and casual employees, co-op students, volunteers, job applicants
- 3.6 *Equal Treatment* Treatment that brings about an equality of results and that may, in some instances, require different treatment. For example, to give all employees

equal treatment in entering a building, it may be necessary to provide a ramp for an employee who requires the use of a wheelchair.

- 3.7 *Harassment* Improper comment or conduct that a person knows or ought to know would be unwelcome, offensive, embarrassing or hurtful. It is a form of discrimination. Harassment may be subtle, direct or indirect. It may result from one incident or a series of incidents. Harassment may occur between co-workers, between management and employees, between employees and Trustees, between employees and third-party contractors/consultants, between employees and members of the public, between employees and students or between employees and parents/legal guardians.
- 3.8 *Code Harassment* Improper comment or conduct based on one or more of the prohibited grounds listed in the Ontario Human Rights Code, that a person knows or ought to know would be unwelcome, offensive, embarrassing or hurtful.
- 3.8.1 Examples of Code harassment based on a prohibited ground include, but are not limited to: slurs or derogatory remarks; threats; inappropriate jokes, innuendos, name-calling, teasing; insulting gestures; practical jokes which result in embarrassment; displaying pin-ups, pornography, racist, homophobic or other offensive materials; use of electronic communications such as the internet and e-mail to harass; actions that invade privacy; spreading rumours that damage one's reputation; refusing to work with another; condescending or patronizing behaviour; abuse of authority which undermines performance or threatens careers; unwelcome touching, physical assault or sexual assault.
- 3.8.2 There is no legal obligation for an individual to tell a harasser to stop. The fact that a person does not explicitly object to harassing behaviour or appears to be going along with it does not mean that the behaviour is not harassing or that it has been consented to.
- 3.8.3 This procedure is not intended to interfere with constructive, feedback regarding performance or operational directives provided to employees by their supervisors or managers.
- 3.9 *Personal Harassment* Personal (non-Code) is harassment that is not related to a prohibited ground identified in the Ontario Human Rights Code. Personal harassment is improper comment and/or conduct, not related to a legitimate work purpose, directed at and offensive to another person or persons in the workplace that the individual knows or ought to reasonably know would offend, harm or is derogatory, demeaning or causes humiliation or embarrassment.
- 3.9.1 Personal harassment often involves a course of behaviours over time. However, a single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute personal harassment.

3.9.2 Examples of personal harassment include:

- Making remarks, jokes or innuendoes that demean, ridicule, intimidate or offend;
- Displaying or circulating offensive pictures or materials in print or electronic form;
- Regular use of profanity and abusive language
- Repeated offensive verbal or e-mail threats and/or intimidation
- Targeting individual(s) in humiliating practical jokes
- Excluding, shunning, impeding work performance
- Spreading gossip, rumours, negative blogging, cyber bullying
- Retaliation, bullying, sabotaging
- Public humiliation
- Inappropriate sexual touching, advances, suggestions or requests

3.9.3 Personal harassment does not include:

- Legitimate performance/probation management
- Appropriate exercise and delegation of managerial authority
- Operational directives
- A disagreement or misunderstanding
- Conflict between co-workers that include differences of opinion or minor disagreements
- Work related change of location, co-workers, job assignment
- Appropriate discipline
- Less than optimal management
- A single comment or action unless it is serious and has a lasting harmful effect
- Rudeness unless it is extreme and repetitive

3.10 *Racial Harassment* Is harassment on the ground of race. It may also be associated with the grounds of colour, ancestry, where a person was born, a person's religious belief, ethnic background, citizenship or even a person's language.

3.10.1 Racial harassment/discrimination can include:

- Racial slurs or jokes
- Ridicule, insults or different treatment because of your racial identity
- Posting/e-mailing cartoons or pictures that degrade persons of a particular racial group

- Name-calling because of a person's race, colour, citizenship, place of origin, ancestry, ethnic background or creed
 - Hate-related behaviours/crime
- 3.11 *Sexual Harassment* Is harassment on the ground of sex. This includes a sexual advance or solicitation from anyone if they know or ought to know the advance is unwelcome, especially if the advance is from a person in a position to give or deny a benefit or to engage in a reprisal or if a threat of reprisal is made if the advance is rejected. Other examples are sexually suggestive or obscene remarks or gestures, leering (suggestive staring) at a person's body, unwelcome physical contact, having to work in a sexualized environment (bragging about sexual prowess, or discussions about sexual activities), circulation or posting of sexist jokes or cartoons, display of pin-up calendars or other objectifying images, negative stereotypical comments based on gender, sex or sexual orientation and gender related comments about an individual's physical characteristics or mannerisms.
- 3.12 *Mediation* A voluntary process where parties in dispute consent to meet with a trained mediator to determine whether the dispute can be resolved in a mutually satisfactory manner. Mediation discussions between parties are treated as private and confidential to the full extent permitted by law.
- 3.13 *Poisoned Work Environment* Is a form of indirect harassment/discrimination. It occurs when comments or actions ridicule or demean a person or group creating real or perceived inequalities in the workplace. Pornography, pin-ups, offensive cartoons, insulting slurs or jokes, and malicious gossip (even when they are not directed towards a specific employee or group of employees) have been found to "poison the work environment" for employees.
- 3.14 *Prohibited (Protected) Grounds* The list of grounds related to employment for which a person or group is protected under the Ontario Human Rights Code. The prohibited grounds include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (includes pregnancy, breast feeding, gender identity), sexual orientation, age, record of offences, marital status, family status, disability. Under the Code and this procedure, there are protections where there is a perception that one of the above grounds applies or where you have been treated differently because of an association or relationship with a person identified by one of the above grounds.
- 3.15 *Reasonable Person Test* An objective standard to measure whether a comment or conduct is discrimination or harassment. It considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. It considers the recipient's perspective and not stereotyped notions of acceptable behaviour. This standard is used to assess human rights complaints under this procedure.

- 3.16 *Respondent* The person who is alleged to be responsible for the discrimination or harassment. There can be more than one respondent in a human rights complaint.
- 3.17 *Workplace* The workplace includes all schools, offices, buildings, or property in or on which Limestone District School Board conducts business. Included are district-related activities, such as sanctioned social functions or business performed at any other location away from the district schools or buildings, during or outside of normal working hours. Workplace harassment can also include incidents that happen away from work such as inappropriate phone calls, e-mails or visits to an employee's home or after work socials. It does not include union activities conducted off site.

4.0 HARASSMENT AND DISCRIMINATION PREVENTION EDUCATION & TRAINING

- 4.1 The Limestone District School Board is committed to providing training and education to ensure that all Board staff has knowledge about their rights and responsibilities under the Anti-Harassment & Respect in the Workplace Procedure.

5.0 REPORTING HARASSMENT AND DISCRIMINATION

- 5.1 Individuals who believe that they have been subject to Harassment or Discrimination or who believe they have witnessed harassment or discrimination of another individual should follow Administrative Procedure 406 – Respect in the Workplace: Reporting and Investigating Workplace Harassment & Discrimination.

6.0 PROCEDURE REVIEW

- 6.1 The Respect in the Workplace: Anti-Harassment & Discrimination Procedure must be reviewed as often as is necessary, but at least once in a twenty-four-month period or as otherwise provided for through collective agreement provisions.

Legal References:

Ontario Human Rights Code

Ontario Occupational Health & Safety Act

Related Procedures:

Violence in the Workplace

Respect in the Workplace: Harassment & Discrimination Reporting Process

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