

HARASSMENT-FREE WORK/SCHOOL ENVIRONMENT

Background

All individuals employed and educated within the Division have the right to work and learn in an environment free from harassment. This procedure is in keeping with the Division's dedication to providing students and staff members with a safe and caring environment that fosters and maintains respectful and responsible behaviors.

Definitions

1. "HARASSMENT" occurs when an individual is subjected to unwelcome verbal or physical conduct, including without limitation, unwelcome verbal or physical conduct because of race, religious beliefs, gender, physical disability, mental disability, marital status, family status, source of income, age, ancestry, color, place of origin or sexual orientation. It may consist of:
 - 1.1 offensive, abusive, belittling or threatening behaviour directed at an individual or a group of individuals;
 - 1.2 physical contact or coercive behaviour;
 - 1.3 oral and written statements (including in an electronic form) that are derogatory or intimidating, whether made directly or through a third party;
 - 1.4 insulting or threatening gestures;
 - 1.5 continual unjustified and unnecessary comments about an individual's standard of work or academic achievement or capacity for work or academic achievement;
 - 1.6 pictures, posters, cartoons, graffiti or written material (including in an electronic form) that are offensive or obscene;
 - 1.7 threatening or abusive telephone calls, written communications, facsimiles or messages on electronic mail or computer networks;
 - 1.8 persistent following within the workplace or school environment, or to and from work or school;
 - 1.9 derogatory or dismissive treatment or material expressing prejudice or stereotypical assumptions about the group to which an individual may belong;
 - 1.10 continual exclusion of an individual or a group of individuals from work or school assignments, networks, or from normal work or school place conversation and interaction.

Harassment makes the workplace or school environment, or matters associated with work or school, unpleasant, humiliating, or intimidating for the person or group of people targeted by that behaviour. It can severely inhibit effective work and productivity.

Harassment must not be confused with legitimate advice and comment from supervisors and heads of departments, or teachers on an individual's work performance. Such comment and advice may legitimately include negative statements and feedback.

2. "SEXUAL HARASSMENT" is unwanted sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature which:
 - 2.1 Implicitly or explicitly makes submission to such conduct a term or condition of an individual's work or academic achievement;
 - 2.2 Affects access to employment, educational or other Division-sponsored programs or activities;
 - 2.3 Creates a hostile or offensive environment which interferes with an individual's work, ability to learn or participate in activities;
 - 2.4 Intimidates, embarrasses, coerces or humiliates an individual in the work place, at school or other Division-sponsored events; or
 - 2.5 Arises out of a relationship which is not based on mutual consent.

SEXUAL HARASSMENT is comprised of any of the following behaviors, although it is not limited to the behaviors listed herein:

- 2.6 Verbal abuse or threats associated with behavior of a sexual nature;
 - 2.7 Unwelcome remarks or jokes of a sexual nature;
 - 2.8 Unwelcome invitations or requests of a sexual nature;
 - 2.9 Staring, leering or inappropriate observation of a sexual nature;
 - 2.10 Displaying or posting pornographic or offensive materials of a sexual nature;
 - 2.11 Unwelcome physical contact of a sexual nature;
 - 2.12 Exposing oneself sexually;
 - 2.13 Explicit or implicit demands of a sexual nature;
3. "COMPLAINANT" is an individual, or group of individuals, who submit a complaint; may be a third party having knowledge of an incident of HARASSMENT or SEXUAL HARASSMENT.
 4. "RESPONDENT" is an individual against whom a HARASSMENT or SEXUAL HARASSMENT complaint is made.
 5. "COMMISSIONER" is an individual who is identified and appointed by the Division to act as a COMMISSIONER for the purposes of this procedure. The Superintendent shall be appointed for this purpose.
 6. "PERSON IN A POSITION OF AUTHORITY"
 - 6.1 for a student, is a teacher or Principal within the school; and
 - 6.2 for a staff member, is a person in the school or Division to whom the staff member is accountable (e.g. Principal, Vice Principal, Division Office Administrator).

Guidelines

1. No staff member, student, or Trustee of the Division shall engage in conduct or behavior which constitutes HARASSMENT or SEXUAL HARASSMENT.
2. An individual subjected to HARASSMENT or SEXUAL HARASSMENT has a responsibility to make it clear, either to a PERSON IN A POSITION OF AUTHORITY, the alleged offender, or to both, that the behavior is unacceptable.

3. Any PERSON IN A POSITION OF AUTHORITY who receives a complaint is responsible for ensuring that the complaint is addressed appropriately at the earliest opportunity.
4. No individual shall knowingly or willfully submit complaints based on false allegations.
5. Complaints regarding HARASSMENT or SEXUAL HARASSMENT can be resolved through an informal verbal complaint mechanism, which may involve voluntary mediation, and/or by filing a formal written complaint with a PERSON IN A POSITION OF AUTHORITY.
6. The RESPONDENT is entitled to know the name(s) of the individual(s) making an informal or formal complaint. In the case of a formal complaint, the RESPONDENT shall receive a copy of the letter of complaint outlining the allegations.
7. Reasonable effort shall be made to respect the confidential nature of a complaint. However, absolute confidentiality cannot be guaranteed owing to the need for an investigation and the need to inform the RESPONDENT of the nature of the allegations.
8. The parents of a student 16 years of age or younger must be notified if their child is involved in a SEXUAL HARASSMENT complaint.
9. Resolution procedures do not take away from the COMPLAINANT's right to file a complaint with the Alberta Human Rights and Citizenship Commission, commence proceedings in a civil or criminal court, file a grievance in accordance with the provisions of the applicable collective agreement, or pursue other recourse afforded under the School Act or Teaching Profession Act.

Procedures

1. INFORMAL COMPLAINT RESOLUTION

1.1 Making an Informal Complaint

- 1.1.1 The COMPLAINANT may convey objections regarding the unacceptable behavior to the RESPONDENT directly or through a PERSON IN A POSITION OF AUTHORITY.
- 1.1.2 While conveying objections to the RESPONDENT informally, is highly encouraged, failure to do so does not preclude the filing of a formal complaint.
- 1.1.3 The COMPLAINANT is to keep written records regarding the incident(s) and of any attempts to inform the RESPONDENT directly or through reports to a person in a position of authority.
- 1.1.4 At any point during the informal process if the COMPLAINANT wishes to file a formal complaint, he or she may do so.

1.2 Receiving an Informal Complaint

The PERSON IN A POSITION OF AUTHORITY:

- 1.2.1 Who receives an informal verbal complaint must initiate action within five days, and

- 1.2.2 Must ensure that the complaint is either resolved, or all reasonable efforts have been made to resolve the complaint, within three months of the date the complaint is received.
- 1.2.3 Must provide the COMPLAINANT and RESPONDENT with information regarding HARASSMENT or SEXUAL HARASSMENT, including Division procedures, and advise them where assistance is available.
- 1.2.4 Must assist the COMPLAINANT in speaking to the RESPONDENT directly, or speak to the RESPONDENT on the COMPLAINANT's behalf, to outline the allegations and attempt to resolve the complaint informally.
- 1.2.5 Must monitor the status of the complaint to see that it is satisfactorily resolved within the required time limit.

1.3 Voluntary Mediation

- 1.3.1 If the PERSON IN A POSITION OF AUTHORITY is unable to resolve the complaint within the three-month period, the COMPLAINANT and RESPONDENT will be asked whether they are willing to enter into voluntary mediation.
- 1.3.1 Voluntary mediation shall occur within five months of the date the informal complaint is received by a PERSON IN A POSITION OF AUTHORITY.
- 1.3.2 The focus of the mediation process shall be educational and preventative rather than punitive, subject to a warning issued pursuant to paragraph 1.4.2.
- 1.3.3 If the COMPLAINANT and RESPONDENT agree, the individual in a person in a position of authority shall appoint a neutral third party acceptable to both.
- 1.3.4 If the informal complaint is not resolved through mediation, a formal complaint may be filed at the discretion of the COMPLAINANT.

1.4 Outcome of an Informal Complaint

- 1.4.1 If the COMPLAINANT confronts the RESPONDENT directly and is able to resolve the matter at this informal level, no sanctions will be applied by the Division.
- 1.4.2 If a PERSON IN A POSITION OF AUTHORITY is required to deal directly with the RESPONDENT and the behavior appears to be in violation of this policy, a warning may be issued indicating that such behavior is unacceptable. Failure to discontinue the behavior may result in a formal Complaint.
- 1.4.3 If both parties enter into voluntary mediation, an acceptable resolution may be achieved. If the complaint is not resolved through mediation, a formal complaint may be initiated with the agreement of the COMPLAINANT.

2. FORMAL COMPLAINT RESOLUTION

2.1 Making a Formal Complaint

- 2.1.1 A formal complaint consists of a signed written statement outlining the allegations, describing the specific incident(s), the dates (if available) and any witness(es) who may have been present or witnessed the alleged HARASSMENT or SEXUAL HARASSMENT.
- 2.1.2 A formal complaint may be filed up to one year from the date of the most recent incident cited in the letter of complaint.

2.1.3 The COMPLAINANT is responsible for notifying the person in a position of authority if a complaint is filed with the Alberta Human Rights and Citizenship Commission, police, union, association or if civil court action is initiated while the allegations are still under review by the Division. The Division may elect to process the complaint or stay the procedures pending the outcome of the other investigation(s).

2.2 Receiving a Formal Complaint

The PERSON IN A POSITION OF AUTHORITY shall:

2.2.1 Accept the formal complaint provided no more than one year has elapsed since the most recent incident outlined in the complaint. (The COMMISSIONER may elect to consider a complaint received after this time.)

2.2.2 Verify that the allegations may represent a violation of Division policy.

2.2.3 Notify and provide a copy of the complaint to the RESPONDENT and the COMMISSIONER.

2.3 Resolving a Formal Complaint

2.3.1 An individual shall be appointed by the COMMISSIONER to conduct an investigation regarding the complaint.

2.3.2 The COMPLAINANT and RESPONDENT shall have the opportunity to:

2.3.2.1 Provide written submissions to the investigator;

2.3.2.2 Respond to the other party's written submissions;

2.3.2.3 Appear before the investigator to provide oral submissions;

2.3.2.4 Respond to one another's statements; and

2.3.2.5 Have someone present to provide advice and assistance (i.e., legal, counsel, association/union representative, colleague, parent)

2.3.3 The investigator shall have the right to ask questions of the COMPLAINANT, RESPONDENT and witnesses.

2.3.4 The investigator's findings shall be detailed in a report to the COMMISSIONER. and

2.3.5 Resolution will take place within 3 months of a complaint being filed unless notice is served on the COMPLAINANT and the RESPONDENT prior to the expiration of 3 months that an additional period for resolution will be required of up to an additional 3 months.

2.4 Outcome of a Formal Complaint

2.4.1 If the results of the investigation support the allegations outlined in the letter of complaint, the COMMISSIONER may impose a range of sanctions on the RESPONDENT. The sanctions depend upon the nature and seriousness of the offence and other relevant factors. Sanction may include: a verbal warning, a written reprimand with a copy retained in the RESPONDENT's file, transfer, suspension, expulsion from school or termination of employment.

2.4.2 If the results of the investigation do not support the allegations, the complaint will be dismissed and a letter will be issued indicating that the RESPONDENT has been cleared of all allegations. The RESPONDENT has the option of requesting that a copy of the letter be placed in his or her file, and must be made aware of this option.

- 2.4.3 If the evidence indicated that the COMPLAINANT knowingly and willfully made false allegations in an attempt to cause harm to the RESPONDENT, the COMMISSIONER may impose a range of sanctions on the COMPLAINANT. The sanctions depend upon the nature and seriousness of the offence and other relevant factors. Sanction may include: a verbal warning, a written reprimand with a copy retained in the COMPLAINANT's file, transfer, suspension, expulsion from school, and termination of employment.
- 2.4.4 The COMPLAINANT and RESPONDENT shall be provided with a summary of the results of the investigation, but shall not be provided with the investigator's report to the Commissioner.

2.5 Appeals

- 2.5.1 Either the COMPLAINANT or the RESPONDENT may appeal to the Board if dissatisfied with the resolution of a formal complaint.
- 2.5.2 Either party has the right to seek civil and/or criminal redress through the courts, file a complaint with the Alberta Human Rights and Citizenship Commission, file a grievance in accordance with the provisions of the applicable collective agreement or other recourse afforded under the School Act or Teaching Profession Act.

2.6 Retaliation

- 2.6.1 No staff member \ student \ the Division shall take retaliatory action with the intent of dissuading or punishing an individual for participating in the complaint resolution process. Sanctions may be imposed for retaliation.
- 2.6.2 Retaliation against individuals participating in the complaint resolution process is not to be confused with sanctions imposed for harassment, sexual harassment, or making false allegations.

Reference: Section 27, 60, 61, 113, School Act
Freedom of Information and Protection of Privacy Act
Human Rights Act
Canadian Human Rights Act
Canada Labor Code
Canadian Multiculturalism Act
Criminal Code

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