

451 - HARASSMENT

Background

The Board is committed to a healthy, harassment-free work and learning environment. Students, employees, trustees, parents and community members should work and learn in an environment free of harassment.

This procedure is intended to provide a greater awareness about harassment and to deal quickly and effectively with any prohibited behavior that might occur.

This procedure sets out guidelines regarding prohibited behavior in the areas of harassment and sexual harassment.

GUIDELINES

Definitions

1. **Discrimination** means certain forms of harassment that are prohibited by human rights legislation. The law prohibits discrimination and therefore harassment on the following grounds: sexual orientation, race, religious beliefs, color, gender, physical disability, mental disability, marital status, age, ancestry, place of origin, family status or source of income.
2. **Harassment** means conduct or communication in any form (including technology use: computer, internet, e-mail, messaging, cell phone, etc.) of attitudes, beliefs or actions whether deliberate or unintentional, towards an individual defined in this procedure or group of people defined in this procedure, which might be reasonably known to be unwelcome. If serious enough, a single act or expression can constitute harassment. Harassment may be either subtle or blunt.
3. **Sexual Harassment** means any unwanted sexual advance, request for sexual favors and any other unwanted conduct of a sexual nature. Sexual harassment can include conduct such as pinching, patting, rubbing or leering, “dirty” jokes, pictures of pornographic materials, comments, suggestions, innuendoes, suggestive comment, display or comment of a sexual nature that may reasonably be perceived as placing a connotation of a sexual nature on employment or learning environment. The behavior need not be intentional in order to be considered sexual harassment. This procedure is not intended to inhibit relationships based on mutually acceptable social relationships or contact between employees or non-employee adults.
4. **Prohibited behavior** means discrimination, harassment and/or sexual harassment as defined in this procedure.

5. **Where Prohibited Behavior may occur:** any place where trustees, employees, students and other users perform learning, work, or work-related duties or functions. Schools and school-related activities, such activities provided through teacher services and field trips are included, as are Board offices and facilities. Conferences and training sessions fall within the ambit of this procedure.
6. **Student** means all persons who are enrolled in a program offered by the Division.
7. **What Prohibited Behavior is not:** the normal exercise of supervisory responsibilities including evaluation, training, direction, instruction, counseling and discipline. The Division should be careful not to consider as objectionable conduct that which is acceptable to the majority of the population, when an overly sensitive person is affected.
8. **To Whom does this Policy apply:** to all students, employees, trustees and other users such as parents, volunteers, clients of the Board permit holders, contractors and employees of other organizations not related to the Board but who nevertheless work on or are invited onto the Board premises.
9. **Complainant** means the individual covered under this procedure who makes the complaint.
10. **Respondent** means the individual covered under this procedure against whom the complainant alleges the prohibited behavior.
11. Supervisory and managerial personnel have a specific duty to implement this procedure. This duty includes the prevention and the response to harassment, the education of staff, students and the school community.
12. In the school situation, harassment may be of several kinds – adult of adult, adult of student, student of adult and student of student. The latter case of prohibited behavior should normally be dealt with as a school discipline procedure.
13. Individuals who experience harassment are strongly encouraged to take direct action by communicating with the respondent at the earliest time possible. All complaints must be reported within six months of the most recent alleged prohibited behavior.
14. The Board shall ensure that a designated central office administrator has Harassment Investigation Training.

PROCEDURES

A. Informal Complaint

1. All those covered by this procedure may complain about prohibited behavior and may access the complaint procedure. However, every attempt should be made to resolve matters through an informal resolution.

Informal resolution is a procedure that provides an opportunity for parties to resolve a dispute mutually in a respectful manner.

The first step: The complainant shall inform the individual (verbally or in writing) of the prohibited behavior in a timely fashion and advise that it must stop immediately. Many complaints can be resolved quickly and effectively using this approach. The Board encourages supervisory and management personnel, as well as union representatives, to first attempt informal resolution.

If the prohibited behavior continues, the complainant should involve the supervisor to resolve the complaint. Once apprised of the situation, supervisory and/or managerial personnel must address and attempt to resolve complaints under this procedure in a timely fashion.

In cases where an informal plan of action is implemented, supervisory and/or managerial personnel shall follow up by monitoring the situation, holding, if necessary, subsequent meetings with the parties and taking further steps to ensure that the harassment has stopped.

Persons using the informal process should keep a record of all incidents and the way in which they were handled.

If the informal complaint does not resolve the issue, the complainant may choose to initiate a formal complaint. It is not necessary to initiate an informal complaint before filing a formal complaint. If a formal complaint is initiated, it supersedes an informal complaint.

If the supervisor is the party alleged to be responsible for the prohibited behavior, the complainant may try to have the matter resolved with the assistance of the manager above the supervisor.

B. Formal Complaint

1. If the informal complaint has not been resolved within two weeks of being made, then the complainant may file a detailed written formal complaint with the next level of management.
2. Supervisory and managerial personnel who are contacted in the formal complaint shall proceed in accordance with the guidelines set out in Resolving Issues of Harassment.
3. If a student initiates a formal complaint, he/she must contact their school principal or vice-principal directly. The school principal or vice-principal shall deal with all formal student complaints in a timely fashion at the school level unless advised otherwise by senior central office personnel.

Confidentiality

1. All persons shall treat information pertaining to a prohibited behavior situation with discretion.
2. Reasonable efforts shall be made to respect the confidential nature of a complaint under this procedure. Information collected and retained as part of an investigation may be subject to release as part of a legal process.
3. The following general principles apply:
 - 3.1 the complainant and the respondent have a right to their own personal information;
 - 3.2 the complainant and the respondent may see written statements or reports related to the complaint process;
 - 3.3 a complainant/respondent does not have the right to see personal information about each other or about a third party that is not directly related to the complaint;
 - 3.4 where the Superintendent or delegate (including the investigator):
 - (1) determines, in accordance with FOIP, that disclosure of personal information will constitute an unreasonable invasion of a third person's personal privacy; or
 - (2) reasonably believes that disclosure of information will imperil the safety of an individual involved, such information shall not be disclosed.
4. If there is a determination on a balance of probabilities that a complaint has been filed in bad faith, is vexatious, or is clearly without merit, the Division may discontinue the complaint process and disciplinary action may occur against the complainant.
5. Reprisals against individuals who have reported a complaint of prohibited behavior are forbidden. Alleged reprisals shall be investigated as formal complaints and, if substantiated, are subject to disciplinary consequences.
6. In all cases, supervisory and managerial personnel have a duty to respond to and take action to resolve any alleged or suspected situations involving prohibited behavior. The Resolving Issues of Harassment provides a framework for the formal complaint process.

Review

1. In the event a complainant or respondent to a formal complaint has one or both of the concerns listed below, a request may be made within 10 days of the decision regarding the formal complaint of prohibited behavior, to the Deputy Superintendent of Human Resources to convene a review. A reviewer may be appointed by the Deputy Superintendent of Human Resources.

The grounds for review are:

- (a) The investigator did not comply with the procedures;
- (b) New evidence has become known after the final decision but before the expiry of the ten working days limitation period for requesting a review.

Legal Reference

The School Act 1999, Section 44 (3) (d)

Created: February 23, 2010