

Respectful Workplaces Free of Workplace Harassment

Administrative Procedure

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Responsibility:	Superintendent of Human Resources

Purpose

The Halton District School Board is committed to fostering a safe, caring and respectful workplace. The goal of this Administrative Procedure ("AP") is to recognize the dignity and worth of every person by creating an environment grounded in understanding, cooperation and mutual respect, free of harassment.

A respectful workplace, free of harassment, is one that values diversity and inclusion, courteous and professional conduct, fairness and equality, positive communication between people, and collaborative working relationships.

The Halton District School Board condemns harassing behaviours and will not tolerate such conduct. All employees, Trustees, contractors, and volunteers are responsible for upholding this commitment, and modelling respect for the dignity and rights of their colleagues and the public they serve.

This AP defines harassment and outlines the Board's process for reporting and investigating an employee allegation that they have been harassed.

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Definitions

Harassment means:

- (A) Workplace Harassment as defined by the *Occupational Health and Safety Act* (“**OHSA**”), and
- (B) Harassment and Sexual Harassment as defined by the *Human Rights Code* (the “**Code**”), as further described below.

A. Workplace Harassment under OHSA means:

- (a) *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, or*
- (b) *workplace sexual harassment;*

Worker means a person who performs work or supplies services for monetary compensation.

Workplace means “*any land, premises, location or thing at, upon, in or near which a worker works*” and includes board facilities and off-site locations where extra-curricular activities, excursions, conferences and training take place, as well as electronic and telephonic communications platforms that are used for work purposes.

Examples of workplace harassment contrary to OHSA and this AP include, but are not limited to:

- unwelcome words or actions that are known to be offensive, hostile, embarrassing, humiliating or demeaning to a person or groups of people;
- unwanted practical jokes that target a particular person;

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- behaviour that intimidates or isolates a person or groups of people from their co-workers;
 - bullying, intimidating or offensive jokes, gestures or innuendos;
 - the display or circulating of offensive pictures or materials;
 - offensive or intimidating phone calls, emails or social media postings;
 - unnecessary physical contact, including unwanted touching.

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

Workplace Sexual Harassment under OHSA means:

- (a) *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*
- (b) *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.*

Examples of conduct which can be found to constitute sexual harassment include:

- the use of sexually profane language;
- leering/persistent staring;
- rude or suggestive remarks of a sexual nature;

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- sexually-based jokes or cartoons, whether communicated in person or electronically;
- sexually provocative photographs;
- unwanted physical contact, including patting, touching or grabbing;
- wolf-whistles or cat-calls;
- degrading, sexually-based nicknames;
- conduct or remarks which denigrate an individual's sexuality;
- references to sexual prowess;
- intimidating behaviour such as blocking a person's way or pinning them to the wall;
- stalking;
- insistent requests for dates;
- reprisal against a person who has declined a sexual advance or invitation.

Sexual harassment does not include sincere personal compliments, a hug between friends or a mutual flirtation.

B. Harassment and Sexual Harassment constituting Discrimination under the *Human Rights Code* means harassment of an employee in the workplace, by another employee, an employer or agent of the employer, on the grounds of "*race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.*"

Examples of harassment and sexual harassment constituting discrimination contrary to the *Human Rights Code* and this AP include:

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- racial or other epithets based on a protected characteristic;
- demeaning comments made to a person because of a protected characteristic;
- jokes or cartoons making fun of a group of people with a protected characteristic;
- inappropriate comments about cultural differences (e.g., accents, clothing or dress);
- comments or conduct motivated by consideration of a person's membership in a group with a protected characteristic which may not be intentionally offensive, but where it may reasonably be anticipated that such comment or conduct would be unwelcome;
- comments or acts that treat a person in a less favourable manner compared with others in the same position, where the differential treatment is motivated by a protected characteristic;
- reprisal, or threat of reprisal, against a person who has complained of or provided information about an incident of workplace harassment.

There need not be an express reference to a protected characteristic, or to a particular person, for harassing conduct to create a "poisoned work environment" amounting to discrimination contrary to the *Human Rights Code*.

Responsibilities

All staff, contractors, volunteers, and Trustees have the following responsibilities:

- being familiar with their rights and responsibilities under this policy;
- ensuring behaviour relating to work is respectful;

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- not engaging in behaviour that would constitute discrimination or harassment;
- immediately reporting incidents of harassment, using the process outlined in this AP;
- documenting details of harassment in written or other recorded format;
- co-operating in good faith in any consultations, inquiries and investigations made pursuant to this AP;
- maintaining confidentiality regarding a consultation, inquiry or investigation.

All Administrators and Managers/Supervisors have the following responsibilities:

- modelling respectful behaviour;
- ensuring that staff and volunteers have the appropriate knowledge and skills to meet their obligations under this AP;
- communicating and enforcing standards of respectful and appropriate workplace conduct, including intervening appropriately, as needed;
- remaining alert to incidents of discrimination and harassment that may be occurring in the workplace, and intervening appropriately, as needed;
- providing leadership in creating and maintaining respectful and harassment-free workplaces;
- not engaging in behaviour that would constitute discrimination or harassment under this AP;
- ensuring access to the inquiry and investigation processes outlined in this AP;

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- maintaining confidentiality, to the extent possible;
- posting this AP in a conspicuous place at the workplace.

Disrespectful Workplace Complaint Process

An employee who believes that they have been treated disrespectfully in the workplace, or subjected to a pattern of discourteous behaviour inconsistent with Board culture and expectations, but does not meet the definition of harassment as outlined in this AP, may report their concern(s) to their supervisor.

A supervisor receiving such a report may inquire into the circumstances, consult with those involved, attempt to resolve the concerns, and if it may be helpful, contact the Superintendent of Human Resources, or designate(s), for advice and/or support in facilitating resolution.

If the concern involves the employee's immediate supervisor, the employee may contact the Superintendent of Human Resources, or designate(s).

The Harassment Complaint Process

An HDSB employee alleging that they have been subject to harassment may submit a complaint outlining the behaviours they believe to be harassing, following the process outlined below.

Step 1 - Discussion

It may be appropriate in some circumstances for a person who believes that they have been subject to harassment to speak directly to the person behaving in the manner they object to and advise that they consider particular comments or conduct

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to be harassing and request that it stop. However, there is no legal obligation for an individual to speak to a harasser directly.

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.

If the person does not feel comfortable raising their concern, or if they raise the issue and the conduct does not improve, they may proceed to Step 2 or 3.

Step 2 – Informal Resolution

The Complainant may contact their immediate supervisor and/or the Respondent's immediate supervisor about their concerns. The supervisor(s) will speak to both the Complainant and Respondent, and attempt to resolve the matter informally. The supervisor is encouraged to contact the Human Resources department for support and/or consultation.

If the Complainant is not satisfied with the outcome of the informal resolution process, or if they have previously attempted informal resolution without success, or if they have reasonable grounds to believe that participation may result in retaliation, they may advance their complaint to Step 3.

Step 3 – Formal Complaint

A person who believes that they have been harassed and/or who is not satisfied that their concerns were resolved at Step 1 or 2 may submit a formal complaint.

(a) *Written Complaint Form*

A formal complaint must be in writing, on the form attached as Appendix A to this AP, and must be signed by the Complainant. Anonymous complaints, or incomplete forms, will not be accepted.

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A written complaint must be submitted within six (6) months of the occurrence of the event(s) which gave rise to the complaint, unless the Complainant can establish that there were extenuating circumstances preventing them from filing a complaint in a more timely manner, and the delay would not result in prejudice to the Respondent.

(b) Preliminary Review

Step 3 will be coordinated by the Superintendent of Human Resources, or designate(s), who will review the complaint to ensure that it has been submitted in good faith, and that the alleged facts, if found to be true, would support a finding of harassment, and fall within the scope of this AP. A determination by the Superintendent, or designate(s), that a complaint has been submitted in bad faith, or that the allegations, even if true, would not constitute harassment, will result in a dismissal of the complaint.

A complaint which is based on facts which have also been relied upon in an application to the Human Rights Tribunal or a grievance with the Labour Relations Board may also be dismissed under this AP.

It may be necessary for the Superintendent, or designate(s), to contact the Complainant to request further details and/or supporting documentation in order to clarify the nature and scope of the complaint, or attempted resolution.

(c) Request for Mediation

At any time during Step 3 either the Complainant or the Respondent may request mediation, which may occur only if both parties and the Superintendent of Human Resources, or designate(s), agree. Mediation shall act as a stay of the investigative timelines.

(d) Investigation

Providing the Superintendent of Human Resources, or designate(s), is satisfied that the complaint may proceed under this process, they shall appoint an

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investigator, and shall be responsible for overseeing the investigation process and ensuring it complies with this AP.

Prior to interviewing the Respondent, the investigator will provide the Respondent with a summary of the allegations to allow the Respondent to prepare for the interview.

In most circumstances, the investigator will interview the Complainant first, then the Respondent, and then any witnesses. The investigator may also interview other people who, in the opinion of the investigator, would be able to contribute relevant information to the investigation. Both the Complainant and the Respondent shall be invited to provide the names of any witnesses and/or documentation that could assist the investigator, provided that they do so within five (5) days of the interview.

The investigator will make best efforts to complete the investigation as expeditiously as possible.

(e) Confidential Process

All participants in the investigation process will be cautioned that they must treat information shared in the investigation as strictly confidential.

The investigator will keep information provided by witnesses confidential, subject to the investigator's need to disclose such information in order to conduct a full and thorough investigation, and produce a report.

The Superintendent of Human Resources, other Supervisory Officers, or their delegate, may disclose information received as part of the investigation as necessary to impose and implement consequences, and as otherwise required by law.

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(f) *Investigator's Report*

The investigator shall complete their investigation according to the principles of procedural fairness, and shall make a finding of fact as to whether, on the balance of probabilities, the alleged conduct took place, and whether it constituted harassment. The investigator may also consider whether the complaint was made in good faith.

The investigator shall provide the Superintendent of Human Resources with a written report summarizing the allegations, the steps taken in their investigation, their findings of fact, and their conclusion as to whether the Respondent's conduct constituted harassment as defined by this AP.

(g) *Consequences*

The Superintendent of Human Resources will determine the appropriate response to the report. A finding of harassment, or of a complaint made in bad faith, may lead to consequences including but not limited to:

- restorative measures
- counselling
- sensitivity or other training;
- a letter of expectation;
- a letter of discipline;
- suspension without pay;
- reassignment;
- termination of employment; and/or
- where appropriate or required by law, a report to the employee's professional regulatory body.

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(h) *Conclusion of Formal Process*

The Superintendent of Human Resources or designate(s) shall meet individually with the Complainant and the Respondent to provide each of them with a verbal summary of the results of the investigation. This may include the corrective actions, if any, that will be taken.

The information provided in this meeting will be confirmed by follow up correspondence to the Complainant and the Respondent.

Records

The secure storage of all records of complaints and investigations, including meeting and interview notes, the investigator's report, and related documents, will be the responsibility of the Superintendent of Human Resources, and will not form part of an employee's Human Resources file.

All such records will be kept confidential by the board except where disclosure is required by law or as a consequence of litigation, potential or actual, or where necessary in order to implement the consequences of a finding of harassment or a bad faith complaint.

Complaints Against Supervisory Officers or Trustees

A complaint against a Supervisory Officer, other than the Director of Education, or against a member of the Board of Trustees, will be made to the Director of Education, who shall oversee the Board's response to the complaint, according to the process outlined in this AP.

A complaint against the Director of Education will be made directly to the Chair of the Board of Trustees. An external investigator may be retained in such circumstances. The process shall otherwise comply with this AP.

Where the investigator finds that the Respondent's conduct amounts to harassment, the Director of Education in the case of a Supervisory Officer, or the Board of Trustees

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in the case of the Director of Education or member of the Board of Trustees, will determine the appropriate response to the harassing behaviour.

RESOLUTION PROCEDURES INVOLVING STUDENTS, CONTRACTORS, OR PARENTS

Each school will include in its Student Code of Behaviour a definition of Discrimination and Harassment as outlined in these guidelines, as well as the possible courses of action and consequences deemed appropriate where a Student commits an offence under the terms of these guidelines.

Complaints by Staff against Students

Where a staff member complains that a Student has disrespected, discriminated against or harassed them, the individual shall bring the complaint to the attention of the Principal and the matter will be dealt with under the Student Code of Behaviour. The Principal may bring the matter to the attention of the Superintendent of Human Resources, or designate(s), who may direct that a member of the Human Resources department become involved in dealing with the complaint. Where a complaint is upheld, it will be dealt with under the Board's student discipline policies and procedures.

Complaints by Staff against Parents or Contractors

Where a staff member has brought forward a formal complaint against a parent or contractor, the Superintendent of Education and/or Business Services may be consulted as part of the Preliminary Review. Where a complaint is deemed to be upheld, the respondent may receive a letter of counselling, issued a trespass notice, denied access to school, classroom, or board property (as permitted under the Education Act), or any other such consequences deemed appropriate. In the case of a contractor, the company may be asked to refrain from sending the employee, or may have their contract cancelled.

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Administrative Procedure Review

This AP shall be reviewed no less than annually.

Cross-Reference:

Legislation

Occupational Health & Safety Act

Ontario Human Rights Code

Board Policies, Procedures & Protocols

Violence Prevention in the Workplace

Workplace Investigations Process

Child Abuse Reporting Procedures

Progressive Discipline

Respectful Workplace Policy

Discrimination and Harassment Policy

Revision History

- January 2025 (major revisions to align with best practices and legislation)

Appendix A

[Workplace Harassment Form](#)