

Department: Human Resources
Section: Employee and Labour Relations

The Annapolis Valley Regional School Board (“School Board”) is committed to fostering a workplace where all employees are treated with dignity and respect.

Harassment is against the law; and in our schools and worksites, harassment has immense social and personal costs. Harassment is a substantial barrier to safe, equitable, collegial and progressive work environments. Therefore, bullying, including cyber-bullying, discrimination and harassment of any kind is unacceptable and will be addressed by the School Board.

Specifically

1.0 Scope

- 1.1 All employees of the School Board have a right to be free of harassment and a responsibility to treat others with respect.
- 1.2 This Policy covers conduct that takes place in the school, School Board offices, in buildings under School Board jurisdiction, on school property, and at school-sponsored events; or elsewhere in the course of school or School Board activities, including social functions, travel, conferences or training. This Policy also pertains to usage of electronic technology and electronic communication, including off-duty behaviour that has a nexus with School Board business.
- 1.3 This Policy applies to all current employees of the School Board including full and part-time, casual and temporary employees. Student behaviours that are considered inappropriate in nature are addressed under the *Provincial School Code of Conduct Policy* issued by the Department of Education and Early Childhood Development. Behaviours by Parents, Guardians or Community Members that are considered to be harassing in nature will be addressed by the School Principal, in consultation with the Supervisor of School Support Services as required.

2.0 Definitions

- 2.1 The School Board prohibits discrimination, bullying, sexual harassment and harassment within the school community.
- 2.2 **Discrimination** is prohibited by Nova Scotia’s *Human Rights Act*. Discrimination is distinctive treatment, whether intentional or not, on the basis of: age, race, colour, religion, creed, sex, sexual orientation, gender identity, gender expression, physical disability or mental disability, an irrational fear of contracting an illness or disease, ethnic, national or aboriginal origin, family status, marital status, source of income, political belief, affiliation or activity, and an individual’s association with another individual or class of individuals having any one or more of the characteristics referred to in the list above, that from the perspective of a reasonable person in the position of the complainant has the effect of imposing a burden, obligation or disadvantage on an individual or a class of individuals not imposed upon others, or which withholds or limits access to opportunities, benefits and advantages available to other individuals or classes of individuals.

- 2.3 **Bullying** including cyberbullying is behaviour, typically repeated, that is intended to cause or should be known to cause fear, intimidation, humiliation, distress or other harm to a person's body, feelings, self-esteem, reputation or property.
- 2.4 **Harassment** is a course of vexatious conduct or comment that is known or ought reasonably to be known to be unwelcome. Harassment includes any objectionable act, comment, joke or display that demeans, belittles, threatens, intimidates or causes personal humiliation or embarrassment. Harassment may be verbal, psychological, physical, written, or electronic.
- 2.5 **Sexual Harassment** is vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome; a sexual solicitation or advance made where the individual who makes the advance is in a position to confer a benefit on or deny a benefit to the individual to whom the advance is made, where the individual knows or ought reasonably to know that the advance is unwelcome; or a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.
- 2.6 Harassment and Bullying is not:
- Appropriate supervision, including training, direction, instruction, evaluation, and counselling.
 - Imposition of authorized and appropriate discipline.
 - Occasional curtness or lack of friendliness, but not lack of friendliness that is so persistent or intense and individualized that it constitutes shunning;
 - Other routine interaction, including interpersonal conflicts or difficulties from time to time, short of harassment defined above.
- 2.7 **Prohibited Behaviour** is any discrimination, bullying, sexual harassment or harassment as defined above.
- 2.8 **Complainant** is an employee of the School Board who believes they has been subject to Prohibited Behaviour.
- 2.9 **Respondent** is an employee of the School Board who has allegedly engaged in Prohibited Behaviour.
- 2.10 **Informal Complaint Procedure** is typically the first method used to resolve complaints that have not been resolved through direct action.
- 2.11 **Formal Complaint Procedure** is ordinarily the final method used to resolve complaints which cannot be resolved through the Informal Complaint Procedure.
- 2.12 **Investigation** is the process undertaken to respond to a formal complaint.
- 2.13 **Investigator** is a person appointed by the Director of Human Resources to investigate the complaint under the Formal Complaint Procedure. The Investigator can be the Director of Human Resources (or designate), another School Board employee, or someone from outside the School Board.
- 2.14 **Person in Authority** may include the Complainant's supervisor, the Respondent's supervisor, or a Human Resources manager.

3.0 Procedures

These procedures serve as guidelines to support the School Board's Respectful Workplace Policy and the School Board's commitment to providing a flexible process for resolving harassment concerns and complaints. Voluntary settlement of Prohibited Behaviour complaints, through direct action, is often the best avenue for resolving issues. Individuals shall be assisted in reaching informal resolution of discrimination and harassment complaints, wherever possible, so that recourse to the formal process remains a last resort.

At any time during these procedures, the Director of Human Resources may determine that the complainant's concerns, taken as true, do not constitute a Prohibited Behaviour and may conclude the procedure at this point.

3.1 Direct Action

- 3.1.1 Individuals who experience or perceive Prohibited Behaviour are strongly encouraged to take direct action by communicating, in person or in writing, with the Respondent promptly, to inform the person clearly and directly that the behaviour is unwelcome and must stop.

3.2 Informal Complaint

- 3.2.1 If the Complainant is unable to take direct action or the Prohibited Behaviour continues following the direct action, then the Complainant may make an Informal Complaint to a Person in Authority. Human Resources will determine the best process to be followed, and where the circumstances exist, may resolve the situation by taking one or more steps, including but not limited to:
- attempt to resolve the complaint;
 - go directly to a formal complaint;
 - initiate an investigation; or,
 - report criminal behaviour.
- 3.2.2 All reasonable attempts will be made to ensure the Informal Complaint Procedure does not exceed twenty (20) working days from the date the Informal Complaint was received.
- 3.2.3 A Complainant must pursue an Informal Complaint before pursuing a Formal Complaint, where the circumstance warrants.

3.3 Formal Complaint

- 3.3.1 If the Informal Complaint process does not resolve the issue, the Complainant may complain in writing, using the Formal Complaint Form (Appendix A), to the Director of Human Resources (or designate).
- a. If the Director of Human Resources is the Complainant or Respondent, the complaint shall be made to the Superintendent.
 - b. If the Superintendent is the Respondent, the complaint shall be made to the Chair of the Board.
- 3.3.2 A formal written complaint should be initiated within one year of the incident, although the Director of Human Resources (or designate) and/or the

Superintendent has discretion to accept a complaint filed after a longer period, where exceptional circumstance warrant.

3.3.3 The Complainant shall:

- a. Complete the Formal Complaint Form (“Appendix A”).
- b. Keep a copy of the completed form for his/her records.
- c. Provide the original completed form to the Director of Human Resources (or designate).

3.3.4 The Director of Human Resources shall advise the Superintendent, Respondent, and supervisors of the Complainant and Respondent of the complaint and shall arrange to have it investigated.

3.3.5 If appropriate, the Director of Human Resources may attempt to resolve the complaint through discussion with the parties. If this is not successful, the matter will be formally investigated pursuant to section 4 below.

3.3.6 The Director of Human Resources shall determine who will investigate the complaint.

3.3.7 All reasonable attempts will be made to ensure the investigation of the complaint will commence within twenty (20) working days of the Director of Human Resources receipt of the Formal Complaint Form.

4.0 Investigation

The focus of the workplace investigation will be to effectively carry out a systematic, logical and thorough examination and to collect information where the complaining party is heard, the problem is given serious attention according to Board policy, and a reasonable resolution is provided.

At any time during the investigation, the Investigator may determine that the complainant’s concerns, taken as true, do not constitute a Prohibited Behaviour and may conclude the investigation at this point. Where criminal behaviour is alleged, the investigation will be placed on hold and shall be reported to the appropriate policing agency.

4.1 All employees of the School Board have a requirement to cooperate in any investigation undertaken pursuant to this Policy.

4.2 The Investigator shall interview the Complainant, accept any written statement(s) the Complainant wishes to provide, and document the interview. Copies of these documents or a summary of the relevant information may be given to the Respondent by the Investigator.

4.3 The Investigator will meet with the Respondent and their response, or a summary of the response, shall be conveyed back to the Complainant for reaction.

4.4 The Investigator shall re-interview the Complainant and Respondent as necessary, shall interview other persons and gather materials as may be necessary to complete the investigation, and shall produce a factual report (the “Report”) about the complaint to the Director of Human Resources.

- 4.5 All reasonable attempts will be made to ensure the investigation be finalized within 90 working days after receiving the complaint. The Director of Human Resources or the Superintendent may extend the 90 working day time limit where circumstances warrant.
- 4.6 Time lines in the investigative process may vary depending on any applicable time lines in current Collective Agreements.
- 4.7 A Complainant may opt to discontinue the Formal Complaint and investigation process under this Policy at any time. However, depending on the circumstances, the Director of Human Resources may determine that an investigation continue in order to determine whether or not Prohibited Behaviour had occurred.

5.0 Reporting

- 5.1 Upon the conclusion of the investigation, the investigator shall issue a Formal Investigation Report (a full report with reasoning and recommendations) and shall provide it to the Director of Human Resources or the Superintendent if the complaint is made pursuant to 3.3.1(a). All reasonable attempts shall be to have the Report completed within thirty (30) working days following the completion of the investigation.
- 5.2 The Director of Human Resources shall review the Report and any recommendations therein. The Director of Human Resources shall provide, to the Complainant and Respondent, a summary of the relevant findings and the conclusion as to whether or not Prohibited Behaviour was established; private medical information may be excluded.
- 5.3 After receipt of the summary the parties may wish to make additional comments, and shall do so within five (5) working days of its receipt.
- 5.4 The Director of Human Resources shall issue an official decision, and shall proceed with corrective/responsive action, if warranted, pursuant to Section 6.

6.0 Disposition & Corrective Action

- 6.1 School Board employees who, after investigation, are found to have participated in Prohibited Behaviour, or employees who are found to have filed a complaint falsely and with malicious intent are subject to disciplinary action, up to and including termination.
- 6.2 If the investigation and decision confirms that Prohibited Behaviour has occurred, the Director of Human Resources shall initiate appropriate intervention. Interventions may include:
 - a. mediation, if appropriate.
 - b. appropriate discipline, up to and including termination.
 - c. involuntary relocation/transfer of the offender.
 - d. verbal agreements or a formal apology.
 - e. required counselling or program for offender.
 - f. any other measure that is in accordance with any applicable Collective Agreement.
 - g. proceedings under applicable legislation.

h. severance of involvement with the school and School Board.

6.3 If the investigation does not conclude that Prohibitive Behaviour has occurred, the Director of Human Resources (or designate) shall dismiss the complaint and, if appropriate, engage in any informal resolution activities to assist in the return to a positive working environment.

6.4 If dissatisfied with the investigation's findings or corrective action, the Respondent and Complainant shall have no right to appeal. Should the Complainant or Respondent feel aggrieved by the outcome of the investigation or corrective action, recourse shall be according to the applicable Collective Agreement or legislation, and not pursuant to this Policy.

6.5 A copy of the final Report will be filed in the Complainant's and Respondent's personnel file.

7.0 Confidentiality

7.1 The Complainant, Respondent, witnesses and all persons involved in a direct action, informal complaint, or an investigation of a formal complaint made pursuant to this Policy, are to maintain confidentiality except where disclosure is necessary for the purposes of investigating the matter, imposing a corrective action contemplated by this policy, or as required by law.

7.2 The School Board shall make every effort to ensure confidentiality of the Complainant and the Respondent to the degree permitted by law, except where participants have otherwise authorized.

8.0 Other Avenues of Redress

This Policy does not deny or limit access to other avenues of redress available under the law (i.e. criminal complaint, civil suit, grievance or a complaint with the appropriate human rights commission). The Director of Human Resources may direct the investigator to postpone, suspend or cancel an investigation should any of these other avenues of redress be pursued.

Monitoring

- The Director of Human Resources is responsible for the implementation, monitoring and revision of this administrative procedure.
- This administrative procedure will be monitored annually.

Superintendent Approved: Dec 4/15

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Monitoring Date: Annually

Revised: February 1/17