



**ADMINISTRATIVE PROCEDURE  
PERSONNEL**

Effective:	July 6, 2016
Last Revised:	Sept 27, 2016

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**WORKPLACE HARASSMENT:  
RESPECTFUL WORKING AND LEARNING ENVIRONMENTS  
FOR EMPLOYEES**

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**1. INTRODUCTION**

This administrative procedure applies to employees of the Rainbow District School Board.

Complaints involving non-employees can be found under *Harassment: Respectful Working and Learning Environments for Non-Employees*.

Complaints involving trustees fall under Board *Governance Policy Manual No. GOV-05 Code of Conduct: Board Members*

**2. DEFINITIONS**

**Complainant:** Person/employee who makes an allegation of objectionable conduct or harassment.

**Respondent:** Person/employee who responds to an allegation.

**Objectionable Conduct:** Objectionable conduct that could be viewed as workplace harassment is conduct that is directed towards a person that serves no legitimate purpose and creates an intimidating, humiliating or offensive work environment that is known or ought to be known to be unwelcome. It may include but is not limited to:

- conduct that conveys threats, bullying, coercion, taunting, or ostracizing;
- conduct that is malicious, vexatious, demeaning, belittling or causes personal humiliation or embarrassment;
- jokes, innuendo or remarks about appearance or personal life;
- misuse of power such as reprimanding in front of others, belittling work, favouritism, withholding information necessary to do the job;
- a threat, attempt or exercise of physical force;
- any conduct that violates the Human Rights Code.

**Workplace Harassment:** Workplace harassment is the engagement in a pattern or course of vexatious comment or objectionable conduct against a person that is known or ought reasonably to be known to be unwelcome.

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**Workplace Sexual Harassment:** Workplace sexual harassment is the engagement in a pattern or course of vexatious comment or objectionable 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 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 to reasonably know that the solicitation or advance is unwelcome. It may include but is not limited to:

- inappropriate physical contact, request for sexual favours, offensive written or visual images;
- unwelcome solicitation or advances from a person who has the power to reward or punish the complainant;

**Objectionable conduct does not include:**

- the proper exercise of responsibility or authority related to the provision of advice, assignment of work, counselling, performance appraisal, discipline and/or other management or supervisory functions;
- verbal disagreements or personality differences that are addressed in a respectful manner.

### **3. INFORMAL COMPLAINT PROCESS**

If an employee feels s/he has been subjected to objectionable conduct, the complainant should make notes of the offensive conduct (such as date of occurrence, what happened, what was said and who else was present) and should attempt to speak to the respondent and let him or her know the impact of the conduct. If the conduct continues after an attempt to discuss the situation with the respondent, the complainant should contact either his/her immediate supervisor or union for advice. No specific names are necessary at this step of the procedure. The contact may result in advice, mediation or a recommendation that the complainant initiate a formal complaint.

### **4. COMPLAINT INVESTIGATIONS**

A copy of this administrative procedure will be provided to all parties as the process proceeds to the formal complaint process. Where a complaint involves a union/federation member the employer must advise the employee of his/her right to have a representative present during the process.

### **5. FORMAL COMPLAINT PROCESS**

The complainant shall report the complaint to his/her principal or manager in writing, specifying incident(s), time, date, the name of person(s) involved, the name(s) of witness(es), any attempts made to resolve the matter and any other information deemed relevant by the complainant.

If the respondent is the principal or manager, the complainant shall contact the superintendent to commence the formal complaint process.

When a principal/manager is approached by a complainant to initiate a formal complaint, the principal/manager must contact his/her superintendent to determine who will conduct the investigation.

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Investigations must take place in a timely fashion. All employees are expected to cooperate in an investigation.

An investigation will involve:

- gathering all pertinent information from the complainant;
- interviewing any witnesses identified by the complainant;
- interviewing the respondent such that they can respond to the allegations;
- interviewing witnesses identified by the respondent;
- deciding whether, on the balance of probabilities that the objectionable conduct did or did not take place;
- deciding whether there were mitigating circumstances which would affect the outcome of the investigation;
- determining remedies including discipline or other action.

During the process of an investigation respondents and complainants must not make any contact with the other party, witnesses or any other person involved in the investigation. Any interference with the investigation could result in disciplinary action separate and distinct from the results of the investigation itself.

Complainants, respondents and witnesses are to keep their involvement in an investigation and all details of the matter strictly confidential. Any breach of confidentiality could result in disciplinary action separate and distinct from the investigation itself.

The name of the complainant and the respondent will not be disclosed except to the extent disclosure is necessary to investigate the complaint. Absolute confidentiality cannot be guaranteed in order to ensure the process is conducted fairly.

If a complaint is not supported by the evidence there will be no penalty imposed on the complainant unless it is determined that the complaint was made in bad faith, was malicious or vexatious, in which case the complainant may be disciplined.

The results of the investigation and any corrective action will be communicated to the complainant within 10 days of the completion of the investigation. The results are not the report.

At the completion of an investigation, a report will be prepared and the principal/manager/superintendent will forward all documentation confidentially, in a sealed package, to the Manager of Human Resources.

## **6. Mediation**

At any point in the formal complaint process, the superintendent/director of education may authorize the appointment of a mediator who is acceptable to both sides, to attempt resolution. Mediation will only take place where the complainant and the respondent agree to participate in a mediated resolution.

## **7. Support**

Employees will have access to the Employee Assistance Program as applicable.

This procedure will be reviewed annually.

**REFERENCE DOCUMENTS**

- Board Policy No. GOV-01 *Board Vision, Mission, and Values*
- Board Policy No. GOV-05 *Code of Conduct: Board Members*
- Board Policy No. GOV-11 *Learning and Working Environment: Equity and Inclusion*
- Board Policy No. GOV-12 *Learning and Working Environment: Safe Schools*
- Administrative Procedure: Acceptable Use of Information and Communication Technologies
- Ontario Regulation 474/00 Access to School Premises
- PPM 119 Developing and Implementing Equity and Inclusive Education Policies 2013
- PPM 128 The Provincial Code of Conduct and School Board Codes of Conduct
- *Ontario Human Rights Code*
- *Municipal Freedom of Information and Protection of Privacy Act*
- Rainbow District School Board: *A Guide for Students and Parents*
- Administrative Procedure *Harassment: Respectful Working and Learning Environments for Non-Employees*

October 14, 2016