

HARASSMENT PREVENTION, REPORTING AND INVESTIGATION

Background

The Division is an equitable employer that is committed to workplace diversity and strives to provide a supportive work and school environment wherein all are provided with a welcoming, caring, respectful and safe work and learning environment that respects diversity and fosters a sense of belonging equitable access and treatment. Every reasonable effort will be made to ensure that employees and students are not subjected to violence or harassment within the context of the employment relationship or at school related events, and that appropriate action will be taken when such behaviour is alleged to have occurred. This procedure is part of the Division's health and safety program required under the *Occupational Health and Safety Act*.

The Division believes in the prevention of violence and harassment and promotes a workplace and learning environment in which all people respect one another and work together to achieve common goals. Any act of violence or harassment committed by or against any worker, student, parent, volunteer or member of the public is unacceptable and such conduct will not be tolerated. The Division believes that all individuals have the right to work and learn in an environment free from violence, personal harassment or sexual harassment. This administrative procedure is in keeping with the Division's dedication to providing and maintaining an environment that fosters respectful and responsible behaviours.

With respect to Division employees and students we are committed to:

- Educating our employees in the recognition of violence and harassment and the operation of this administrative procedure in this regard;
- Investigating reported incidents of or violence or harassment in an objective and timely manner;
- Taking necessary action in response to such reported incidents;
- Informing complainants and supervisors regarding reporting requirements and supports; and
- Providing appropriate support for complainants.

Purpose

The purpose of this administrative procedure is to ensure the health and safety of workers by promoting measures to address harassment in the workplace with a view to ensure that:

- a. Employees are aware of, and understand, that acts of violence or harassment are serious hazards which must be reported, and that a process is in place to deal with the same;
- b. Complainants are encouraged to access any assistance they may require in order to make or pursue a complaint;
- c. Complainants are advised of available resources if they have been subjected to, or become aware of, situations involving violence or harassment;
- d. Action will be taken in response to complaints, and where complaints are substantiated, appropriate corrective and disciplinary action will be taken;
- e. Victims of violence or harassment will be supported; and
- f. The ongoing effectiveness of the Division's actions and response to complaints of violence or harassment will be periodically evaluated.

Definition

A. Violence

For the purpose of this administrative procedure, "violence" means the threatened, attempted or actual conduct of a person that causes, or is likely to cause, physical or psychological injury or harm, and includes domestic or sexual violence, whether it occurs at school, the work site or is work related.

Acts of violence can take the form of physical contact. The threat of violence, either overt or covert, can be just as detrimental and damaging as the physical act of violence itself. Abuse in any form erodes the mutual trust and confidence that are essential to Division's operational effectiveness. Acts of violence destroy individual dignity, lower morale, engender fear, and break down work unit cohesiveness and detrimentally impact on learning.

Acts of violence may occur as a single event or may involve a continuing series of incidents. Violence can victimize both men and women, and may be directed by or towards employees, students, volunteers, visitors, and members of the public.

B. Harassment

For the purpose of this administrative procedure, “harassment” means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to an employee or a student, or adversely affects health and safety. However, excluded from the definition of harassment is any reasonable conduct of an employee in respect of the management and supervision of employees or students. Harassment includes, but is not limited to:

1. Conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation; and
2. A sexual solicitation or advance.

Harassment for the purpose of this administrative procedure also encompasses any unwanted sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature which:

1. Implicitly or explicitly makes submission of such conduct a term and condition of an individual’s work;
2. Affects access to employment;
3. Affects access to school services or events;
4. Creates a hostile or offensive environment which interferes with an individual’s work or learning environment;
5. Intimidates, embarrasses, coerces or humiliates an individual in the workplace; or
6. Arises out of a relationship which is not based on mutual consent.

Examples of conduct which would meet these descriptors include, but are not limited to the behaviours listed herein:

1. Verbal abuse or threats associated with behaviour of a sexual nature;
2. Unwelcome remarks or jokes of a sexual nature;
3. Unwelcome invitations or requests if a sexual nature;
4. Staring, leering or inappropriate observation of a co-worker of a sexual nature;
5. Displaying or posting pornographic, offensive or derogatory materials of a sexual nature in the workplace;

6. Unwelcome physical contact of a sexual nature;
7. Exposing oneself sexually in the workplace;
8. Explicit or implicit demands of a sexual nature; and
9. Any other behaviour, conduct or activity of a sexual nature which is unwelcome or uninvited.

Instruction and Training for Employees

The Division will provide training to employees, which will include a review and explanation of this administrative procedure and the processing of complaints, as well as a description of Division's expectations of employees relative to their behaviour in the workplace. This training will include the following:

- a. How to recognize workplace violence or harassment;
- b. Appropriate response to incidents of violence or harassment; and
- c. The procedures for reporting, investigating and documenting incidents of workplace violence or harassment pursuant to this administrative procedure.

Procedures

The procedure below outlines the process in place to give effect to the operation of this administrative procedure. **Please see Appendix B for a flowchart in responding to incidents of Violence or Harassment in the Workplace.**

1. Right to Assistance

Any person who has been the subject of violence or harassment has the right to access assistance in communicating their objections and, if warranted, in pursuing a complaint, either formally or informally.

An employee should advise their immediate supervisor and, if this is uncomfortable or inappropriate in the circumstances, then the Assistant Superintendent, Employee Services should be advised of the incident. In ensuring the employee who has been the subject of violence or harassment is comfortable in advising the Assistant Superintendent, Employee Services the employee has the right to request the presence of other appropriate Division office support personnel such as the Assistant Superintendent, Learning Services or Corporate Services or the Human Resources Manager. If the concern relates to the Assistant Superintendent, Employee Services, the concern may be brought to the attention of the Superintendent of Schools, and if the concern relates to the Superintendent of Schools the concern may be brought to the attention of the Chairperson of the Board of Trustees.

Employees must report immediately to the Assistant Superintendent, Employee Services any concern about school safety, an unsafe or harmful situation at a worksite,

that they are aware has occurred, or is likely to occur. Members of the Alberta Teachers' Association always have an opportunity to seek advice from the Association relative to concerns that may involve other Association members.

2. Informal Complaint - Possible Steps Prior to Formal Reporting

- a. Where appropriate, the complainant can make their concern known verbally to the respondent, either directly or with the assistance of a third party. This first step is important so that the respondent is immediately made aware that their conduct is offensive to the complainant and must stop. Again, it is recognized that it will not always be possible for the complainant to make the respondent aware of the concern personally.
- b. The complainant should be encouraged to carefully record the details of any incident, including the date and time, nature of the violence or harassment, and the names of any persons who may have witnessed the conduct. The attached Harassment Complaint Form or the Staff Conduct Reporting portal in [Public School WORKS](#) may be utilized and completed as comprehensively as possible in this regard.
- c. The complainant is not required to engage in the informal complaint process prior to making a formal complaint.
- d. At any time during the informal complaint process, the complainant may choose to file a formal complaint.

3. Formal Complaint Reporting

- a. The written record of the complaint should be provided to the Assistant Superintendent, Employee Services and, where the respondent is the Assistant Superintendent, Employee Services, the complaint should be brought to the attention of the Superintendent of Schools, and if the complaint relates to the Superintendent of Schools the complaint should be brought to the attention of the Chairperson of the Board of Trustees.
- b. When a formal complaint is filed, a determination should be made as to whether a report must be filed in accordance with the *Occupational Health and Safety Act*.

4. No Recriminations or Retaliation

No individual filing a complaint will be penalized nor subjected to any prejudicial treatment as a result of making a complaint. No correspondence pertaining to the complaint will be placed on the complainant's personnel file.

No employee shall take retaliatory action against a complainant or a witness with the intention of dissuading or punishing an individual for participating in the complaint process. Sanctions may be imposed for any such retaliation. Retaliation against individuals participating in the complaint process should not be confused with any sanction which may be imposed for making false allegations.

5. Investigation

The Division is dedicated to conducting thorough and timely investigations of any complaints received, with the intention of accomplishing the following:

- protecting employees and students;
- limiting the damaging effects of violence or harassment on victims and others;
- increasing worker and student morale;
- avoiding negative publicity;
- avoiding costly and time consuming legal proceedings; and
- lowering the rate of employee turnover and student withdrawal from school.

The Assistant Superintendent, Employee Services may choose to investigate the matter or may appoint an investigator to assist with the investigation.

6. Investigations of a formal complaint will be carried out in accordance with the following:

- incidents will be investigated as promptly as possible in accordance with the circumstances;
- the Division will not disclose the circumstances related to an incident or names of the complainant, the respondent to have committed the violence or harassment, and any witness, except
 - where necessary to investigate the incident or to take corrective action, or to inform the parties involved in the incident the results of the investigation and any corrective action to be taken to address the incident;
 - where necessary to inform employees of a specific or general threat of violence or harassment or potential violence or harassment (in doing so, the investigator will disclose only the minimum amount of personal information that is necessary to inform workers of a specific or general threat); or
 - as required by law;
- in all cases, both the complainant and the respondent will be interviewed and the respondent will be advised of the allegations they face, and provided with an opportunity to answer the same;
- if a respondent refuses to be interviewed, the investigation may continue without their cooperation;
- if the respondent is unionized, any interview of the respondent shall be conducted in accordance with the collective agreement provisions;
- individuals with knowledge of the incident will be encouraged to keep the information confidential and not to discuss the details with others; and
- the safety of the complainant will be a paramount consideration throughout the investigation process.

This administrative procedure is not intended to discourage any employee or complainant from exercising the rights pursuant to any other process or legislation.

7. Disposition of the Complaint

Following the investigation process, the investigator will determine whether or not complaint has been substantiated. A summary of the findings shall be provided to the complainant and to the respondent. In the event that the complaint is not substantiated, the complainant and the respondent will both be advised separately that the complaint is dismissed, including a removal from the respondent's record of any reference to the complaint.

If a complaint is dismissed, consideration will be given to whether or not the complaint was frivolous and vexatious, or made with malicious intent, and if so, what recourse should flow in the event that this conclusion is reached.

In the alternative, if the complaint is substantiated, the investigator will identify appropriate corrective and disciplinary measures and may include a range of responses. Consideration will be given to the specific circumstances of the incident, the terms and conditions of employment and other relevant factors related to the respondent. Recourse may include both disciplinary and corrective action. The following possible options include one or more of the following:

- a. Apology;
- b. Training;
- c. Referral to an employee assistance plan for counseling;
- d. Reassignment or transfer;
- e. With respect to students, suspension or expulsion in accordance with the applicable administrative procedure and the *Education Act* provisions;
- f. Limiting access to certain areas at the worksite or school, or to Division activities;
- g. Letter of discipline;
- h. Cease and desist letter;
- i. A ban from attending at the worksite or school in accordance with s. 256 of the *Education Act*;
- j. Discharge; or
- k. Advising the local authorities of a potential criminal offense.

8. Systemic harassment investigation

Whether or not any complaint has been made, when concerns regarding a worksite or school environment are brought to the attention of the Division, the Superintendent of Schools may direct the Assistant Superintendent, Employee Services to conduct a systemic review of any worksite or school, to ensure that employees and students are

able to work and learn in an environment free from violence, personal harassment or sexual harassment.

9. Confidentiality

Throughout the complaint or investigation process, to the greatest extent possible, reasonable efforts 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 witnesses, the respondent, the Division's Assistant Superintendent, Employee Services, and the appropriate Occupational, Health and Safety officials. Occupational Health and Safety matters, and if required an Occupational Health and Safety Officer appointed pursuant to Occupational Health and Safety Act.

10. Program Review and Evaluation

As part of the Division's health safety program, the Division will engage in ongoing evaluation to monitor the effectiveness of this administrative procedure. Given that the purpose of this administrative procedure is to minimize the occurrence of workplace violence or harassment and establish an environment of non-tolerance to workplace and school violence or harassment, this procedure will be evaluated against that measure at least every 3 years and more frequently if circumstances dictate.

The program review and evaluation may include the following:

- a needs assessment of complainants and respondents;
- a review of Division and worksite training initiatives;
- process evaluation in order to measure whether the administrative procedure is meeting its intended objective;
- outcome evaluation to determine whether the administrative procedure has met its objectives and whether additional opportunities for improvement in the program can be identified.

This program review and evaluation may include canvassing individuals who have made complaints as well as respondents, witnesses, students, parents and other employees, as to their understanding of the administrative procedure, perception of the efficacy and fairness of the process.

Reference: Relevant Legislation & Guidelines

Administrative Procedure 403 – APPENDIX A

Name of complainant: _____ School/Workplace: _____

Home Phone: _____ Work Phone: _____

Person(s) suspected of harassment (respondent): _____

Nature of the allegations:

Date(s), time(s) and place(s) where the incident(s) took place:

Did anyone witness the incident?

Yes

No

If Yes:

a) Name(s) of witness(es):

b) Description of their respective role in the incident.

How did you react to the harassment?

If applicable, describe any incident that took place previously.

I hereby certify that to the best of my knowledge the above-mentioned information is true, accurate and complete. I understand that by signing this document I agree that a copy may be given to the respondent(s), the respondent's representative and the Assistant Superintendent, Employee Services.

Signature of Complainant

Date

APPENDIX B – Flowchart for responding to incidents of workplace harassment

