

ADMINISTRATIVE PROCEDURES FOR DEALING WITH HARASSMENT

It is the responsibility of all members of the Pembina Trails School Division school community (employee, student, volunteer, parent and trustee) to build an environment of trust and mutual respect which protects the rights of each individual to be free from harassment.

It is important that Division and site-based administrators work with employees, students, volunteers and parents to build an understanding that harassment undermines the dignity and mutual respect of individuals in the school system, threatens personal well-being and performance, and will not be tolerated.

1.1 HARASSMENT

Harassment can occur in the context of any relationship, the more common being employee-employee, employee-student, student- employee, student-student, employer-employee.

The policy applies to, but is not limited to harassment which occurs:

- (a) at a school, the Division office, or other Division facilities;
- (b) outside of a school or the Division office;
- (c) at a school or Division sponsored function;
- (d) in the course of an employment or school assignment outside of a school or the Division office;
- (e) at an employment or school-related conference or training session;
- (f) during employment or school-related travel; and
- (g) while utilizing a communication medium (e.g. Internet, text message, email, telephone, mail).

For the purpose of this set of procedures, harassment means engaging in a course of derogatory or vexatious comments or conduct that is known or ought reasonably to be known to be unwelcome. Vexatious means: irritating, provoking, disturbing, tormenting, troubling, and serving only to cause annoyance to the victim.

It is understood that these definitions of harassment do not include casual compliments or remarks, or any voluntary relationship.

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1.2 ELEMENTS OF HARASSMENT

Harassment has four basic elements:

- i. it is a type of discrimination;
- ii. it is unwanted;
- iii. it affects the individual's ability to learn and/or work;
- iv. it is an expression of power, authority or control, and is coercive in nature.

2.0 HARASSMENT DEFINED

2.1 Consistent with the Human Rights Code (Manitoba), harassment is defined as any one or more of:

2.11 A source of abusive and unwelcome conduct or comment made on the basis of the following:

- i. ancestry, including colour and perceived race;
- ii. nationality or national origin;
- iii. ethnic background or origin;
- iv. religion or creed, or religious belief, religious association or religious activity;
- v. age;
- vi. personal appearance – size and other physical features;
- vii. sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- viii. gender – determined characteristics or circumstances other than those included in vi ;
- ix. sexual orientation;
- x. marital or family status;
- xi. source of income;
- xii. political belief, political association, or activity;
- xiii. physical or mental disability or related characteristics or circumstances, including reliance on a guide dog or other animal assistant, a wheelchair, or any other remedial appliance or device.

2.12 A series of objectionable and unwelcome sexual solicitations or advances; or

2.13 A sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance. If the person making the solicitation or advance knows, or ought reasonably to know, that it is unwelcome; or

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2.14 A reprisal or threat of reprisal for rejecting a sexual solicitation or advance.
In addition to the behaviours defined in the Human Rights Code (Manitoba) the Division also recognizes:

2.15 a course of abusive and unwelcome conduct or comment undertaken or made on the basis of medical circumstances or illness as harassment; and

2.16 retaliation against an individual who:

- a. invokes the policy; or
- b. participates or cooperates in an investigation under the policy; or
- c. associates with a person who invokes the policy or participates in the complaint procedure under the policy.

2.2 EXPLANATION OF SEXUAL HARASSMENT

Sexual harassment is any repeated and unwelcome sexual comment, look, suggestion, or physical contact that creates any uncomfortable working or learning environment for the recipient. It is made by a person who knows, or ought reasonably to know, that such attention is unwelcome. Sexual harassment may also be a single sexual advance particularly one by a person in authority, that includes or implies a threat and/or a reprisal after a sexual advance is rejected.

2.21 Some examples of sexual harassment are:

- i. unwanted, persistent or abusive sexual attention;
- ii. sexually oriented behaviour or remarks which create an intimidating, hostile, or offensive learning or working environment;
- iii. demeaning remarks based on gender;
- iv. suggestive jokes about sex;
- v. sexually-oriented verbal “kidding” or verbal abuse;
- vi. inappropriate comments about clothing, physical characteristics, or activities;
- vii. leering, ogling, and suggestive or insulting sounds;
- viii. unwanted questions or comments about one’s private life;
- ix. unwanted physical contact, such as brushing up against one’s body, patting, grabbing or pinching;
- x. sexual assault (an offence under the Criminal Code);
- xi. subtle pressures for sexual activity;
- xii. suggestions or demands for sexual favours;
- xiii. expressed or implied promise of reward for complying with a sexually oriented request;
- xiv. the display of pornographic and/or exploitative pictures, cartoons, and graffiti in the schools and on other school division premises. This includes pictures and/or messages on clothing.

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2.3 EXPLANATION OF RACIAL HARASSMENT

Racial harassment occurs when words used or actions taken in an abusive or persistent manner by anyone is such that another person is disparaged or caused to feel humiliation because of her or his race, colour, creed, ancestry, place of origin, or ethnic origin. Racial harassment may be overt or subtle, explicit, or in a disguised form such as humour or joking.

2.31 Some examples of racial harassment are:

- i. slurs, gestures, name-calling, innuendoes or taunts about another's racial or ethnic background;
- ii. similar remarks about other racial groups made in the presence of another employee or student;
- iii. unwelcome banter, "teasing" or jokes that are racially derogatory or present stereotypical portrayals of racial or ethnic groups;
- iv. displaying racist, derogatory or offensive pictures, materials, or graffiti;
- v. refusing to study with, work with, or have contact with an employee, volunteer, or student in the work/school setting because of her or his racial or ethnic background.

2.32 The study of other cultures does not constitute racial harassment.

2.4 EXPLANATION OF OTHER FORMS OF HARASSMENT

Other forms of harassment include discrimination, (overt, subtle, and covert) on the basis of gender, sexual orientation, disability or economic/social status.

2.41 Some examples of other forms of harassment are:

- i. negative comments about the general unsuitability of an individual's or a group's educational or career goals to which they aspire; for example, generalizations about "women's proper place" or lack of ability in particular areas;
- ii. derogatory comments about an individual's or a group's moral, intellectual, economic, or social inferiority;
- iii. taunting, teasing, criticizing, or demeaning remarks about individuals, or group members as a category;
- iv. individual or group behaviour that is intimidating or threatening;
- v. stalking;
- vi. unwanted or persistent invasion of personal space;
- vii. bullying; or cyber bullying
- viii. hazing.

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3.0 COMPLAINT PROCEDURES

Students and employees have the right to take assertive action should they encounter harassment in the learning or working environment. They have the right to expect confidentiality amongst the parties involved and to have a reasonable degree of privacy as the matter is resolved. Every effort must be made to ensure the safety of all parties involved once a complaint has been made. If any member of the school community believes they are being harassed, they should follow the procedures set forth below. The Division will not disclose the name of the complainant or the circumstances which give rise to the alleged harassment unless an investigation necessitates such disclosure.

- 3.1 The person subjected to the alleged harassment shall endeavour to communicate with the alleged offender and attempt to reach a mutually acceptable agreement respecting future conduct and interaction. If the complainant does not wish to or is not able to confront the alleged harasser directly, please refer to 3.2. In the event that a site-based administrator is personally involved in the harassment, refer to 3.4. Both or either party may choose to be accompanied by a supportive person at such a meeting. Where the person subjected to alleged harassment is a student, the student may choose to have another adult (parent(s), teacher, counselor, minister, priest, etc.) in attendance. Where the person subjected to alleged harassment is an employee, the employee may wish to request the presence of a witness. Any of the parties may choose to be represented by legal counsel.
- 3.2 If no mutually acceptable agreement is reached under 3.1, or if the alleged harassment recurs, or if the person subjected to harassment believes that no useful purpose would be served by a meeting as suggested under 3.1, the person subject to alleged harassment shall file a complaint with the site-based administrator (e.g., principal). Complaints ought to include where possible:
- a. the name and position of the alleged harasser;
 - b. as many details as possible about the conduct or comments;
 - c. the frequency of the conduct or comments;
 - d. where the conduct/comments occurred;
 - e. the name of any witnesses to the conduct/comments, if any;
 - f. how the complainant responded to the conduct/comments; and
 - g. whether the alleged harasser made and/or carried out any threats or promises in connection with the conduct/comments.

Where the person subjected to the alleged harassment is a student, the student may choose to be assisted by an adult, as described above, in the preparation of such a complaint. Complaints may be made orally or in writing. If made orally, the site-based administrator will prepare a written summary of the complaint for signature by the complainant. If made in writing, the complainant may wish to use Exhibit GBAA-E-1.

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3.3 Within two (2) working days of the receipt of a written complaint alleging harassment, the site-based administrator shall meet independently and/or collectively with the person alleging harassment and the alleged offender for the purpose of obtaining an understanding of the facts and such clarification as may be deemed necessary.
 If the alleged offender is an employee, the supervisor will remind the employee that they have the right to due process, as defined in the applicable collective agreement or Labour Relations Act, including the right of representation.

Subsequent to the investigation of the facts, the site-based administrator may:

- 3.31 dismiss the complaint; or
- 3.32 endeavour to resolve the matter through mediation and/or conciliation;
- 3.33 take disciplinary action as warranted, including suspension if a student is involved;
- or
- 3.34 recommend further action be taken.

3.4 In the event that the action taken by the site-based administrator is unacceptable to either party, the matter shall be referred to the Superintendent or designate, in writing, using Exhibit GBAA-E-1, for consideration and action.

3.5 Within two (2) working days of the receipt of a written complaint alleging harassment, the Superintendent or designate shall investigate the facts and may:

- 3.51 dismiss the complaint; or
- 3.52 endeavour to resolve the matter through mediation and/or conciliation; or
- 3.53 take disciplinary action as warranted, including suspension if a student is involved;
- or
- 3.54 recommend further action be taken.

3.6 At any time during the process, the Superintendent or designate shall be empowered to take interim action as may be deemed necessary with respect to the person allegedly harassed and the alleged offender, pending determination of the disposition of the alleged complaint.

3.7 In the event that the action taken by the Superintendent or designate is unacceptable to either party, the matter shall be referred to the Board for its consideration and action. In the disposition of the matter, the Board shall be empowered to determine the appropriate disciplinary action to be taken in accordance with their findings.

3.8 Where, in the opinion of the Board, termination of contract or suspension/expulsion from school/work may be warranted, the matter shall be decided by the Board.

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3.9 In addition to or instead of levying a complaint pursuant to the policy, a complainant has the right to pursue his/her complaint through the Human Rights Commission or, where appropriate, to lay an information under the Criminal Code of Canada, or both.

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