

RESPECTFUL WORKPLACE PROCEDURES FOR DEALING WITH HARASSMENT

The Pembina Trails School Division affirms its commitment to maintaining a safe, respectful, and inclusive learning and work environment that supports the dignity and self-esteem of all individuals. It is the responsibility of all members of the Division's school community (employee, student, volunteer, parent and trustee) to build an environment of trust and mutual respect which protects the rights of all individuals to be free from harassment.

This policy applies to all forms of harassment, including sexual harassment, psychological harassment, harassment based on legally prohibited grounds, as well as discrimination. It applies to all employees, regardless of their position, hierarchical level or status. It applies to relationships between employees and their supervisors as well as between fellow employees and between colleagues. This policy also applies to situations of harassment between employees and third parties, such as contractors and suppliers.

1.0 DEFINITIONS

"Harassment" means any objectionable conduct, comment or display at, or towards, another employee which creates a risk to the health of the employee. Harassment includes:

- A. Consistent with the *Human Rights Code* (Manitoba), harassment based on prohibited grounds includes the following characteristics:
 - a) Ancestry, including perceived race and colour;
 - b) Nationality or national origin;
 - c) Ethnic background or origin;
 - d) Religion or creed, or religious belief, religious association or religious activity;
 - e) Age;
 - f) Sex, including sex determined characteristics such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
 - g) Gender identity;
 - h) Sexual orientation;
 - i) Marital or family status;

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- j) Source of income;
- k) Political belief, political association or political activity;
- l) 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;
- m) Personal appearance – size and other physical features; and
- n) Social disadvantage

B. Sexual harassment can be defined as a series of objectionable and unwelcome sexual solicitations or advances of a sexual nature. This includes offensive or humiliating behaviour based on a person's sex, behaviour of a sexual nature that creates an intimidating, hostile or poisoned work environment; or behaviour that could be reasonably thought to put sexual conditions on a person's job or job opportunities. 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.

Examples of sexual harassment include, but are not limited to:

- a) unnecessary or unwanted physical contact, such as brushing up against one's body, patting, grabbing or pinching;
- b) inappropriate comments about clothing, physical characteristics or activities;
- c) leering, ogling, and suggestive or insulting sounds;
- d) unwanted, persistent or abusive sexual attention;
- e) persistent questions, insinuations or spreading gossip about a person's private life such as their sexuality, gender identity or expression, or sex life;
- f) sexual assault (an offence under the Criminal Code);
- g) insults or demeaning comments about one's gender or gender role;
- h) treating an individual differently because they do not conform to a person's gender role expectations;
- i) repeated invitations to go out after prior refusal;
- j) sexually explicit comments or gender-based jokes;
- k) writing sexually suggestive letters/notes or emailing sexual jokes;
- l) displaying or circulating offensive graphics, drawing, e-mails, text messages, letters or comments;
- m) making promises or threats in return for sexual favours;
- n) the creation or perpetuation of a poisoned environment, where individuals must tolerate or endure generalized sexual or gender related ridicule as part of a workplace culture;

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- o) 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;
 - p) any other behaviour that could reasonably be thought to put sexual conditions on a person's job or employment opportunities.
- C. Psychological harassment, which includes bullying or abuse of authority which creates a risk to the health of another employee. This type of harassment consists of a single instance, or repeated instances of objectionable and unwelcome comments or conduct directed at another person which serves no legitimate work purpose and has the effect of interfering with the other person's work performance or creating an intimidating, humiliating or hostile work environment.

“Discrimination” refers to the differential treatment, whether intended or not, of an individual or group of individuals, except where bona fide and reasonable cause exists or where it is based upon bona fide and reasonable requirements or qualifications, or reasonable accommodation, based on:

- an individual's actual or presumed membership in, or association with, some class or group of persons, rather than on the basis of personal merit; or
- any of the characteristics listed above under A - Harassment based on prohibited grounds.

“Complainant” refers to the individual who alleges that disrespectful behaviour, harassment or discrimination has occurred in the workplace.

“Respondent” refers to the individual against whom the allegation of disrespectful behaviour, harassment or discrimination is made.

The illustrations of unacceptable behaviour in the above sections are provided as examples of what may constitute prohibited harassment under the present regulation. Since it is impossible to anticipate every possible situation, these examples are by no means exhaustive, and other forms of behaviour may be regarded as prohibited harassment under this policy.

2.0 WHAT DOES NOT CONSTITUTE HARASSMENT

To understand the types of conduct that may **not** constitute harassment, the following examples are offered:

- a) The exercise of normal management activities does not constitute harassment. Normal management of discipline, work performance or absenteeism, the

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assignment of tasks, the application of progressive discipline and even termination of employment constitute the legitimate exercise of management rights. These actions do not constitute psychological harassment as long as management rights are not exercised in an abusive or discriminatory manner.

- b) Difficult conditions of employment and professional requirements, job related stress and organizational changes that are justifiable on an economic or technological basis where they affect personnel in a manner that is not arbitrary.

3.0 PLACES WHERE HARASSMENT MAY OCCUR

For the purpose of this policy, harassment may occur, not only in the workplace but also anywhere else as a result of employment responsibilities or employment relationships, such as outside assignments, shared spaces (lunch or break areas), parking lots, work travel, conferences or employment-related social events.

4.0 EMPLOYEE / DIVISION RESPONSIBILITIES

- Employees are responsible for treating others with respect and dignity, and to speak up if they, or others, are being harassed.
- Employees are responsible for working together in a professional manner and resolving issues in a respectful manner.
- Employees are responsible for reporting incidents of harassment to the human resources department.
- Employees must cooperate in an investigation of harassment. Any employee who gives evidence or information during an investigation or is involved in the process must keep the information confidential, except as necessary to effectively deal with the issue.
- The Division is responsible for creating a safe work environment, free from harassment.
- The Division must ensure, as much as is reasonably practical, that no employee is subjected to harassment in the workplace.
- The Division will take corrective action with anyone under its direction who subjects an employee to harassment.

5.0 COMPLAINT AND INVESTIGATION PROCEDURES

Many complaints are resolved without a formal investigation. An informal process is encouraged if it brings about a timely resolution to the satisfaction of the parties. If an individual feels that they are or have been the victim of harassment, they are encouraged to notify the person responsible for the conduct and request that it stop immediately. The

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Division recognizes that, while in some circumstances this may be difficult, in many situations it will be the most effective method of bringing about a timely resolution to the satisfaction of the parties. If the individual does not wish to bring the matter directly to the attention of the person responsible, or where such an approach is attempted and does not produce a satisfactory result, or if this approach is not feasible or appropriate, a formal complaint and investigation is required. The procedures are as follows:

5.1 Report the Complaint

A complaint shall be provided in written form (complete and submit a GBAA-E-1 Respectful Workplace Form), with a summary of the allegations and submitted to the Human Resources department. Any complaint should contain a brief account of the offensive incident(s), when it/they occurred (including the date and time of day) and the person(s) involved and the names of witnesses, if any. The report should also include the remedy sought by the complainant and be signed and dated by the complainant.

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.

5.2 Attempted Mediation

Depending on circumstances, it is often possible to resolve the matter without further investigation. With the consent of the complainant and the person accused (respondent), the Division may attempt to mediate a settlement of a complaint at any point prior to or during an investigation. Any settlement would have to be satisfactory to both the complainant and the person accused (respondent).

Note: If the complainant and the respondent are teachers they may engage an MTS Staff Officer for mediation.

5.3 Typically, the Human Resources department will conduct the investigation. There may be situations in which it is appropriate to refer the investigation to a third party investigator, for example if there are concerns about neutrality or where the conflict is particularly egregious or complicated.

5.4 This policy is not intended to discourage or prevent the complainant from exercising any other legal rights.

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6.0 RESULTS OF THE INVESTIGATION

Upon completion of the investigation, the Division shall prepare letters to both the complainant and the respondent summarizing the investigation findings and recommending corrective action if necessary. The Division shall administer any discipline as warranted by the circumstances.

Where the investigation results in a finding that the complaint of harassment is substantiated, the outcome of the investigation and any disciplinary action will be documented and included in the employee's human resources file. Where the investigation results in a finding that the complaint of harassment is not justified, no documentation will be included in the alleged offender's human resources file.

7.0 DISCLOSURE OF COMPLAINT INFORMATION

All information provided by the complainant, including the name of a complainant, shall be kept confidential unless otherwise required by law, or necessary to investigate the complaint or take corrective action with respect to the complaint.

Please note that the respondent to the complaint will be informed of the name of the complainant and the details of the complaint.

If any information about the complaint or complainant is required to be disclosed in accordance with this Policy, such disclosure shall be the minimum amount required to accomplish the purpose for which disclosure is required.

8.0 FALSE AND MALICIOUS ACCUSATIONS

False and malicious accusations of harassment will be dealt with and may result in disciplinary action, up to and including termination of employment.

9.0 RETALIATION

An employee who retaliates or threatens to retaliate against any person who has complained of harassment, given evidence in an investigation, or been found guilty of harassment, will be considered to have violated this Policy and will be disciplined accordingly. Retaliation of any kind will be dealt with and may result in disciplinary action, up to and including termination of employment.

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10.0 CONFIDENTIALITY

All reported incidents of any kind of harassment will be investigated. The Division is aware of the sensitive nature of issues relating to harassment. Accordingly, each investigation of any complaint will be conducted in a confidential manner with the findings communicated only to the appropriate parties.

It is equally important that all other persons, including the complainant, the person (respondent) against whom a complaint is made, and anyone involved maintain confidentiality. An employee who makes a complaint has the right to be accompanied by a union representative to address matters contemplated by this Policy. All records relating to any complaint are confidential, unless required to be disclosed for investigation purposes, the disciplinary process or by law.

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