

AVON MAITLAND DISTRICT SCHOOL BOARD

ADMINISTRATIVE PROCEDURE

NO. 138

**SUBJECT: POSITIVE WORKPLACE ENVIRONMENT:
PREVENTING WORKPLACE HARASSMENT AND
DISCRIMINATION**

Legal References: *Education Act: Section 265 Duties of Principal - Discipline, Co-operation Among Staff; Care of Pupils and Property; Part XIII - Behaviour, Discipline and Safety; Ontario Regulation 298 - Operation of Schools Section 20 Duties of Teachers - Co-operation with the Community, Safety Procedures, Consistent Disciplinary Practices; Guideline - Ontario Schools Code of Conduct; Canadian Charter of Rights and Freedoms; Criminal Code of Canada; Ontario Human Rights Code; Municipal Freedom of Information and Protection of Privacy Act; Occupational Health & Safety Act as amended June 15, 2010; Bill 157*

Related References: *Administrative Procedure 142 Religious Accommodation; AP 351 Code of Conduct; AP 352 Promoting Positive Student Behaviour; AP 353 Student Suspension; AP 354 Student Expulsion; AP 357 Violence-Free Schools; AP 404 Violence Prevention in the Workplace; AP 405 Allegations against Employees and Volunteers; AP 410 Environmental Health & Safety*

1. Positive Workplace Environment

- 1.1 In order to achieve the mission, priorities, values and principles of Avon Maitland District School Board, the Board is committed to the development and maintenance of a positive working and learning environment in which all individuals in our school communities are treated with respect and dignity.
- 1.2 The Board recognizes that every individual in our school community has a right to work and learn in an environment free from discrimination in accordance with the Human Rights Code. The Board further recognizes the right of every individual in our school community to work and learn in an environment free from harassment, whether based on a prohibited ground under the Human Rights Code or not.

2. Purpose

- 2.1 To ensure that all individuals within the school district, including employees, volunteers, trustees, parents, contractors, other organizations not related to the Board but who work on or are invited onto Board premises, and students are treated with respect, free from harassment and discrimination in a positive working and learning environment.
- 2.2 To ensure that all individuals are made aware of the Board's intent to support a positive working and learning environment and to advise individuals of the procedures of the reporting and resolution of incidents of harassment and discrimination. Procedures regarding the rights of students to a respectful working and learning environment free from harassment and discrimination are specifically addressed in AP 352 *Promoting Positive Student Behaviour*.

- 2.3 To ensure a positive working and learning environment and to deal promptly with any incidence of workplace harassment or discrimination that might occur.
- 2.4 To provide a careful and impartial review of circumstances and take the appropriate corrective actions to support a positive working and learning environment when allegations of harassment or discrimination come forward.

3. Definitions

Workplace is defined as all work activities that occur while on Board premises, or while engaging in Board sanctioned activities or social events.

Harassment is defined as engaging in a course of vexatious comment or conduct that is known, or ought reasonably to be known, to be unwelcome whether based on a prohibited ground enumerated in the *Ontario Human Rights Code* or not. Harassment can include sexual harassment as defined pursuant to the *Code*.

Discrimination is defined as any action or behaviour that results in unfair, unfavourable or adverse treatment based on one or more of the prohibited grounds.

Prohibited Grounds, in accordance with the Human Rights Code are: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, and disability.

Sexual harassment is defined as unwelcome sexual innuendoes, sexual advances, inappropriate body contact, and requests for sexual favours that intimidate, demean or offend an individual.

Reprisal is defined as an act of retaliation against a person for invoking this procedure or participating in the process under this procedure.

4. Responsibilities

- 4.1 The responsibility for creating and maintaining a positive work environment rests with all individuals sharing the work place. All persons in this learning-working environment will:
 - respect differences in people, their ideas and opinions;
 - treat one another with dignity and respect at all times,
 - respect the rights of others;
 - show proper care and regard for Board property and for property of others;
 - demonstrate honesty and integrity;
 - respect the need of others to work in an environment of learning and teaching;
 - report incidents of harassment or discrimination; and
 - adhere to this procedure.
- 4.2 The Board has a duty to maintain an environment respectful of human rights and free of harassment and discrimination. The Board will:
 - promote a harassment and discrimination free environment;
 - support individuals who are, or have been targets of, harassment or discrimination;
 - provide training on these procedures;
 - take all allegations seriously and respond promptly;
 - provide positive role models; and
 - ensure these procedures will receive profile at new employee and new principal and supervisor orientations and at parent meetings.

- 4.3 Principals and Supervisors have an ongoing responsibility to implement these procedures including the prevention of and response to harassment and discrimination complaints, the education of staff, and the education of the school community.

5. General Procedures

- 5.1 Employees, trustees, volunteers, clients of the Board, parents, permit holders, contractors and employees of other organizations not related to the Board but who work on or are invited onto Board premises, may report harassment or discrimination. A report may also be made by individuals who have witnessed harassment or discrimination directly, or have reasonable grounds to suspect it is occurring. Anonymous reports will not be entertained for dispute resolution under these procedures.
- 5.2 All reports must be filed within 6 months of the most recent alleged harassment or discrimination. Reports filed outside this timeframe may be considered at the discretion of the superintendent of education (human resources).
- 5.3 It is the duty of the principal/supervisor and board personnel to maintain confidentiality to the extent possible in the complaint process. The complainant (reporting individual), respondent (alleged offender), and other persons involved with the complaint processes under these procedures will ensure that all matters remain confidential. The board may be required to provide information obtained during an investigation to an outside agency that has the right to require information otherwise protected by the *Municipal Freedom of Information and Protection of Privacy Act*.
- 5.4 All correspondence and other documents generated under these procedures are subject to the *Municipal Freedom of Information and Protection of Privacy Act* and must be marked "Private & Confidential", and stored in a secure file in the Board's human resources department.
- 5.5 The right to freedom from harassment and discrimination includes the right to freedom from any reprisal or the threat of reprisal. Alleged reprisals shall be investigated as formal complaints and, if substantiated, are subject to the same consequences as complaints of workplace harassment or discrimination.
- 5.6 Anyone reporting an incident of harassment or discrimination may choose to proceed through the informal resolution process first in order to attempt to resolve the concern as quickly as possible and at the lowest level possible. However, it is not necessary for an individual to proceed through the informal resolution process in order to proceed to the formal reporting process.
- 5.7 The complainant and the respondent will be reminded they may be supported and accompanied by a support person of their choice; for example a union/federation representative where appropriate, throughout any complaint process.
- 5.8 A principal/supervisor will consult with, or report the situation to, the director's designate; the superintendent of education (human resources).
- 5.9 Managing and/or coaching that includes counselling, performance appraisal, work assignment, and the implementation of disciplinary actions, is not a form of harassment or discrimination; and this procedure does not impede a principal/supervisor's responsibilities in these areas.

6. Informal Resolution

- 6.1 All individuals covered by these procedures are required to immediately report alleged occurrences of harassment or discrimination.
- 6.2 Informal resolution provides an opportunity for parties to resolve a dispute mutually in a respectful manner. The board encourages principals/supervisors as well as union/federation representatives to first attempt Informal Resolution as a means of resolving issues.
- 6.3 Where possible, the individual should tell the alleged offender that the incident will be reported. In any case where an individual is making a negative report against another individual, the individual making the negative report should be reminded to follow the appropriate protocol, which may be in place under the *Teaching Profession Act* or inter/intra-union procedures.
- 6.4 The principal/supervisor or superintendent of education (human resources), as well as union/federation representative(s), may facilitate an informal resolution by:
 - suggesting that the complainant confront the problem by making it clear to the individual alleged to have engaged in harassing/discriminating behaviour that the behaviour is not acceptable and by obtaining a commitment that the behaviour will stop;
 - informing the individual of the complainant's concern regarding the alleged harassing/discriminating behaviour, and the board's expectation for appropriate behaviour; providing a copy of these procedures and/or other relevant board procedures; obtaining a commitment that the behaviour will stop; and
 - following-up with the complainant to ensure that the behaviour has stopped.
- 6.5 The principal/supervisor will follow-up by monitoring the situation, holding, if necessary, subsequent meetings with the parties and taking further steps to ensure the harassing/discriminating behaviour has stopped.
- 6.6 The principal/supervisor shall ensure, to the greatest extent possible, that all information concerning the incident be kept confidential. Where disputes are solved informally, there will be no formal reports
- 6.7 If the principal/supervisor cannot bring about a resolution to the satisfaction of all involved, the principal/supervisor will advise the complainant of his/her options as outlined below. The respondent shall likewise be advised. After consultation, the individual with the concern may decide to:
 - a) accept the resolution, if one is offered by the principal/supervisor; or,
 - b) submit a formal written report to the superintendent of education (human resources) to make an attempt at a resolution.
- 6.8 Depending on the nature of the concern, the principal/supervisor may decide to report the situation to the superintendent of education (human resources) for follow-up, even where the complainant has chosen to initiate no further action.

7. Formal Complaint

- 7.1 All formal complaints shall be subject to an assessment to determine whether the alleged conduct would, if proven, meet the definition of harassment or discrimination within the meaning of this procedure. If the board determines that the allegations would not meet the definition of harassment or discrimination; or are frivolous or vindictive, or not made in good faith, then the individual with the concern will be so advised and no further action shall be taken under these procedures. Discipline, if warranted, will be determined in consultation with the superintendent of education (human resources).
- 7.2 A formal written complaint containing sufficient details of the alleged harassment or discrimination; e.g. names of person(s), time, place(s) and witness(s), as available; should be submitted by the individual reporting the incident, or by the principal/supervisor to whom the incident has been reported, to the superintendent of education (human resources). A formal complaint may come from an employee or other user of board premises.
- 7.3 If the respondent is the individual's immediate supervisor, then the individual should report the incident to the superintendent of education (human resources).
- 7.4 If the respondent is the superintendent of education (human resources), the individual should report the incident to the director of education.
- 7.5 If the complainant first contacts his/her union president for assistance in reporting the incident, the union president shall immediately contact the superintendent of education (human resources) for further action.
- 7.6 It is recommended that the complaint be filed as quickly as possible. Wherever possible, a formal complaint should be filed within a period thirty (30) days from the time of the alleged incident(s), unless exceptional circumstances justify a delay.
- 7.7 Prior to initiating a formal complaint and throughout the complaint process, all individuals; the complainant, the respondent, witness(es) will be offered appropriate assistance and support.
- 7.8 In all cases principals/supervisors and/or Board personnel have a duty to respond and take action to resolve any alleged or suspected situations involving harassment or discrimination.
- 7.9 An investigation shall be initiated by the superintendent of education (human resources) within five (5) working days of receipt of the written complaint. The format for the investigation shall be at the discretion of the superintendent of education (human resources).
- 7.10 When the written complaint is received, the superintendent of education (human resources) will inform the alleged offender of the complaint, provide him/her with a written copy within five (5) working days of its submission.
- 7.11 The rights of the respondent must also be protected. Respondents have a right to know what approach to resolution is being considered and will be provided time to prepare a full and complete response to the allegations. If the respondent declines to participate in the formal investigation process the investigation will proceed.

- 7.12 In a formal investigation it is the responsibility of the superintendent of education (human resources) to:
- Take appropriate measures to ensure the safety of the complainant;
 - Notify the complainant(s), the respondent(s), and the witness(s) they are entitled to support and assistance throughout the process;
 - Interview the complainant(s), the respondent(s), and the witness(s);
 - Determine whether there was harassment or discrimination behaviour contrary to this procedure; and, if so, determine the appropriate disciplinary and/or other measures warranted to maintain a positive working and learning environment;
 - Provide a written summary of the findings and conclusions to the complainant, and to the respondent, and give them an opportunity to respond to same; and
 - Take appropriate actions to resolve the situation.
- 7.13 Intentionally, wrongfully accusing someone of harassment/discrimination is also a serious matter and could be subject to disciplinary action.
- 7.14 Where, through discussion with the parties involved, there is a finding of harassment or discrimination but a mutually acceptable solution is found, subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, the concern and agreed-upon solution will be recorded and retained.
- 7.15 Where there is a finding that harassment or discrimination has not occurred, no further action will be taken. If the complainant and/or respondent require counseling appropriate steps shall be taken.

8. Review of Decision

- 8.1 In the event a complainant, or respondent to a formal complaint, has one or both of the specific concerns below; the request may be made to the director or designate to convene a review. A reviewer will be appointed by the director or designate. The grounds for review are:
- the investigators fail to comply with these procedures; and/or
 - new evidence becomes known after the final decision but before the expiry of the 10 working days limitation period for requesting a review.
- 8.2 The reviewer will report his/her findings to the director or designate, who will affirm or amend the final decision, or require a new investigation.

9. Education and Training

- 9.1 The *Workplace Harassment and Discrimination* procedures shall be posted, in written form, in the workplace; and will be reviewed annually or as often as necessary.
- 9.2 The Board will provide employees with training with respect to workplace harassment and discrimination.