

7.0. Safe Schools

7.0. SAFE SCHOOLS – Harassment Prevention Administrative Procedure

Adopted: August 30th 2022

Regulation and Procedure Reference: EL-1.1

Legal Reference: MB. Human Rights Commission, MB. W S & H Act Part 10

Overview:

Lakeshore School Division affirms its commitment to maintaining a safe learning and working environment that is free from harassment and at all times supports the dignity and self-esteem of individuals. Harassment of any individual will not be tolerated. An employee who believes she/he is being harassed should report the incident following the procedures set forth.

Definitions:

1. What is Harassment?

For the purpose of this procedure, the Manitoba Human Rights Code defines harassment as:

- a) A course of abusive and unwelcome conduct (i.e. a written or verbal comment, a physical act or gesture or a display, or any combination of them) directly related to the following:
 - a) ancestry, including color and perceived race;
 - b) nationality or natural origin;
 - c) ethnic background or origin;
 - d) religion or creed, or religious beliefs, religious association or religious activity;
 - e) age;
 - f) sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
 - g) gender-determined characteristics or circumstances other than those included in clause;
 - h) sexual orientation;
 - i) marital or family status;
 - 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 dog guide or other animal assistant, wheelchair, or remedial appliance or device
 - m) physical weight and size; or

- b) Objectionable conduct that creates a risk to the health of a worker; or
- c) Severe conduct that adversely affects a worker's psychological or physical well-being if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in case of a single occurrence, has a lasting, harmful effect on a worker; or
- d) A series of objectionable and unwelcome sexual solicitations or advances; or
- e) 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
- f) Sexually oriented behaviour or remarks which create a negative psychological environment for work or study. Such behaviour or remarks include, but are not restricted to:
 - i) demeaning remarks based on gender
 - ii) suggestive jokes about sex
 - iii) inappropriate comments about clothing, physical characteristics or activities
 - iv) inappropriate displays of sexual pictures or materials
 - v) derogatory terms, graffiti which degrades a person based on his/her sex or sexual orientation
 - vi) leering, ogling, and suggestive or insulting sounds
 - vii) unwanted questions or comments about one's private life
 - viii) unwanted physical contact, such as brushing up against one's body, patting or pinching
 - ix) sexual assault (an offense under the Criminal Code); or
- g) A reprisal or threat of reprisal for rejecting a sexual solicitation or advance; or
- h) In addition to the behaviours defined in the Manitoba Human Rights Code, the Division also recognizes:
 - i. a course of abusive and unwelcome conduct or comment undertaken or made on the basis of medical circumstances or illness as harassment; and
 - ii. retaliation against an individual who:
 - a.) invokes the procedure; or
 - b.) participates or cooperates in an investigation under the procedure; or
 - c.) associates with a person who invokes the procedure or participates in the complaint procedure under the procedure.

2. **What does not constitute harassment** (consistent with the Manitoba Human Rights Code)?

- 1) Consensual banter or romantic relationships where the people involved consent to what is happening, is not harassment.

- 2) Appropriate performance reviews, counseling or discipline by a supervisor or manager, is not harassment i.e.:
- a) reasonable action taken in a reasonable manner by an employer or supervisor to:
 - i. assess, evaluate, transfer, demote, discipline or dismiss a worker, or
 - ii. manage and direct the employer's worker or workplace;
 - b) a decision by an employer or supervisor, based on reasonable grounds, not to award or provide a promotion, transfer or benefit to a worker;
 - c) reasonable action taken in reasonable manner under an ACT or regulation affecting a worker.

Terms:

Complainant: refers to the person(s) who believes she/he is being harassed and has filed a complaint.

Respondent: refers to the person against whom the complaint has been made.

COMPLAINT PROCEDURES:

Any person who believes that she/he is being harassed (within the definitions as just outlined) should act promptly in order to resolve the situation; allowing the division to work in a proactive and timely manner to prevent further harassment.

Employees are encouraged to choose the informal approach to reach a mutually acceptable agreement respecting future conduct and interaction.

However, if the complainant is not able to communicate with the alleged harasser the complainant may choose to proceed directly to the Formal Procedure.

Informal Procedure:

A staff member who believes that she/he is being harassed may choose to resolve the issue by communicating (verbally or in writing e.g. email) directly with the person who is believed to be the alleged harasser (i.e. the respondent).

Formal Procedure:

The complainant shall file a complaint (verbally or in writing) with the Principal, Supervisor or designate and or the next higher authority (if the administrator is the alleged initiator of the harassment).

The complainant may also speak directly to their Workplace Safety and Health Representative and or their Union/Association Representative in accordance with their respective Collective Agreements.

INVESTIGATION:

Upon receipt of a formal complaint the Principal, Supervisor or designate shall contact the Superintendent to review the complaint process.

Within two (2) working days of the receipt of a complaint alleging harassment; the Principal, Supervisor or designate shall meet independently and in confidence with the complainant and the respondent to obtain such clarification as may be necessary.

At any time during the investigation, the Principal, Supervisor or designate shall be empowered to take interim action as may be deemed necessary with respect to the complainant and the alleged harasser, pending the outcome of the alleged complaint.

The Principal, Supervisor or designate will prepare a written summary of the complaint for signature by the complainant. A written summary will also be prepared for signature by the respondent.

Upon request from either the complainant or respondent, a copy of his or her own statement shall be provided.

Subsequent to the investigation of the facts the Principal, Supervisor or designate may:

- a) dismiss the complaint or
- b) endeavour to resolve the matter through a conflict resolution process or
- c) take disciplinary action as warranted; or
- d) recommend further action or
- e) take disciplinary action against the complainant, if in the course of the investigation, the Principal or Supervisor finds that the complaint was malicious and without grounds.

The appropriate parties involved will be advised in writing on the determination of the alleged harassment.

In the event that the action taken by the Principal, Supervisor or designate is unacceptable to either the complainant or the respondent, the matter shall be referred to the Superintendent or designate in writing for her/his consideration and action.

Within five (5) working days of receipt of a written complaint alleging harassment, the Superintendent or designate will endeavour to resolve the matter and in doing so shall:

- i) assume responsibility for investigating all such complaints in a confidential manner.
- ii) if necessary, take steps to ensure that there is no recurrence of the situation while the investigation is in progress.
- iii) take appropriate disciplinary action where such is found to be warranted.
- iv) inform the complainant and the person against whom the harassment complaint has been lodged in writing of the outcome of the investigation.

- v) take disciplinary action against the complainant, if in the course of the investigation, the Superintendent or designate finds that the complaint was malicious and without grounds.
- vi) if required, refer the matter to the Superintendent and or the Board of Trustees for its consideration and action.

Note: In addition to levying a complaint pursuant to the Division Procedure, the complainant has the right to pursue her/his complaint through the Manitoba Human Rights Commission or where appropriate to law enforcement agencies under the Criminal Code of Canada, or both.

CONSEQUENCES:

Where it is found that a violation of the procedure has occurred, the Principal, Supervisor, Superintendent or designate may take disciplinary action including, but not restricted to the following:

- a) verbal warning
- b) written warning included in the staff file
- c) suspension of staff with or without pay for a specified period of time
- d) transfer to another location
- e) dismissal
- f) police involvement
- g) requirement for clinical and or counseling services
- h) exclusion from Division facilities.

CONFIDENTIALITY:

All records, documents, notes and transcripts of an investigation shall remain confidential. Except where disclosure is:

- a) required by Law
- b) necessary to investigate the complaint or take corrective action (subject to the requirements of the Freedom of Information and the Right to Privacy Act).

Parties to a complaint are advised to refrain from discussing the complaint with anyone not included in the complaint investigation.

EDUCATION:

Lakeshore School Division is committed to continuing the education of all its employees and management about this procedure and harassment in general.

The Division will circulate the procedure to all employees through:

- a) the Lakeshore School Division Website (Admin Manual)
- b) an Orientation Training Package for new employees
- c) the Administration Procedure Review issued to the Leadership Team each September

- d) the use of Workplace, Safety & Health Bulletin Boards e.g. posting of procedure awareness posters and brochures.

MONITORING:

Lakeshore School Division, in conjunction with the Workplace Safety & Health Committee will review this procedure on a periodic basis to:

- a) review progress in implementing the procedure
- b) identify new strategies
- c) identify new training needs
- d) recommend changes to the procedure.

Action Plan and Expected Behaviours

Lakeshore School Division Board of Trustees and Employees demonstrate the values for an ethical public service through their actions and behaviours. The expected behaviours, actions, and procedures are detailed in the Policies and Administrative Procedures of the Division. The Policies and Administrative Procedures are available on the Lakeshore School Division website. Applicable Policies and Administrative Procedures are listed below.