

SEXUAL HARASSMENT (NONDISCRIMINATION)

Background

The Division is committed to providing an environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional workplace and to learn in a safe setting which promotes equality of opportunity and which prohibits discrimination practices.

Sexual harassment is a form of discrimination based on sex and is prohibited.

Sexual harassment is degrading and threatening behavior. It will not be tolerated within the school division. The Division is committed to ensuring that no person is subjected to sexual harassment in the Division. To fulfill this commitment, the Superintendent has developed this administrative procedure intended to prevent sexual harassment, and to deal quickly and effectively with any incident that might occur.

Procedures

1. Definition of Sexual Harassment

- 1.1 Sexual harassment is any unwelcome behavior that is sexual in nature. Unwanted sexual advances, unwanted requests for sexual acts, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - 1.1.1 Such conduct undermines another individual's personal dignity by causing embarrassment, discomfort, humiliation or offense; or
 - 1.1.2 Such conduct interferes with an individual's work performance or learning opportunities by creating an intimidating or hostile work or learning environment; or
 - 1.1.3 Submission to such conduct is made either explicitly or implicitly a term or condition of employment or of educational services; or
 - 1.1.4 Submission to or rejection of such conduct affects decisions regarding that individual's employment or educational advancement including matters such as promotion, salary, benefits, job security, grades, or employment references.
- 1.2 Sexual harassment includes: crude language and "dirty" jokes; nudity or sexual exposure; gender-based insults; sexual innuendo and suggestive remarks with sexual overtones; unwanted touching (e.g. pinching, patting, rubbing); the display of sexually suggestive material, pornographic material, or of offensive or derogatory images; derogatory or degrading comments; sexually suggestive gestures; non-verbal gesturing, leering or invading an individual's "personal space"; propositioning or unwelcome invitations (direct or indirect); comments about an individual's looks, dress, appearance or sexual habits; demands or inquiries of a sexual nature; persistent and unwelcoming flirting; and the requirement to wear sexist, revealing or suggestive uniforms.

- 1.3 Sexual harassment can occur as behavior by men towards women, women towards men, between men, or between women.
 - 1.4 The behavior giving rise to a complaint need not be intentional in order to be considered sexual harassment; it is sufficient that the offender knows, or ought reasonably to know, that the behavior is offensive and unwelcome.
 - 1.5 This administrative procedure is not intended to constrain social interaction among or between staff or students.
2. School-Related Functions
 - 2.1 Sexual harassment can occur in places other than the school and this administrative procedure extends to all areas considered within the school's jurisdictional responsibility including:
 - 2.1.1 At school sponsored social functions;
 - 2.1.2 On school-related travel or field trips; or
 - 2.1.3 Elsewhere where the individuals involved have a work-related or school-related relationship.
3. Individuals Covered
 - 3.1 This administrative procedure applies to all individuals working or volunteering for the Division or attending Division schools.
 - 3.2 Sexual harassment will not be tolerated, whether engaged in by staff members, volunteers, students, or visitors to the school.
4. Confidentiality
 - 4.1 To encourage proper reporting and resolution of complaints of sexual harassment, confidentiality will be maintained throughout the complainant procedure, and information relating to the complaint, including the identity of the parties involved, will only be disclosed to the extent necessary to investigate the complaint.
 - 4.2 Notwithstanding paragraph 4.1, confidentiality cannot be absolutely guaranteed in that disclosure may be necessary to properly and fully investigate the complaint and resolve it.
5. Responsibility
 - 5.1 The Superintendent has the responsibility to:
 - 5.1.1 Inform all staff members, volunteers and students about the sexual harassment procedure;
 - 5.1.2 Take steps to educate staff members, volunteers and students about sexual harassment, and the procedures for investigating complaints;
 - 5.1.3 Discourage and prevent sexual harassment, even in the absence of formal complaints (e.g. speaking with known harassers);
 - 5.1.4 Promptly investigate every complaint; and
 - 5.1.5 Support and assist any staff member, volunteer or student who complains of sexual harassment by a person from outside of the school division (e.g. sales people, volunteers, visitors).
6. Reporting of Complaints

- 6.1 The Superintendent encourages the reporting of all incidents of sexual harassment, regardless of the identity of the alleged harasser.
 - 6.2 Any person who have experienced sexual harassment are encouraged to:
 - 6.2.1 If practicable, advise the offender, either verbally or in writing, that his/her behavior is unacceptable and unwelcome and ask him/her to stop; and
 - 6.2.2 Promptly report the incident(s) to a trusted teacher, support staff member, counsellor, or to the Principal or the Superintendent. Should the incident involve the Superintendent, reporting should be directed to the Board Chair.
 - 6.2.3 Submit the complaint letter to the Principal or Superintendent (or if the complaint involves the Superintendent, to the Board Chair)
 - 6.3 Any person who believes that a colleague has experienced or is experiencing sexual harassment or retaliation, is encouraged to notify the Principal or the Superintendent.
 - 6.4 A letter of complaint of sexual harassment should set out the following:
 - 6.4.1 Who the alleged harasser was/is;
 - 6.4.2 What occurred;
 - 6.4.3 When it occurred;
 - 6.4.4 Where it occurred; and
 - 6.4.5 The names of witnesses (if any).
 - 6.5 Any complaint together with any evidence will be made available to the respondent and any evidence will be made available to the complainant.
 - 6.6 This administrative procedure does not preclude the complainant from reporting sexual harassment to the Alberta Human Rights Commission, or if the matter is perceived to be criminal in nature, to the police.
7. Resolution of Complaints
- 7.1 All letters of complaint will be thoroughly investigated by the Principal or Superintendent, or an independent and impartial person, delegated to them, to investigate the complaint.
 - 7.2 The Principal or Superintendent or person to whom the complaint is delegated may refuse to take action on a complaint that is deemed to be frivolous or vexatious.
 - 7.3 The resolution of substantiated complaints will follow a two-step process. The Principal or Superintendent may:
 - 7.3.1 Attempt to resolve the complaint in an informal manner (e.g. through mediation with both parties), if this is practicable having regard to all of the circumstances; or
 - 7.3.2 If the informal resolution fails or is impracticable in the circumstances, the Principal can refer the complaint to the Superintendent. The Superintendent may impose appropriate disciplinary measures after providing the alleged harasser with an opportunity to respond to the complaint.

- 7.4 If the harasser has been disciplined, the relevant documentation will be retained in his or her personnel file. If the investigation fails to disclose evidence to support the complaint, no record of the complaint shall be retained in the alleged harasser's file.
- 7.5 If the complaint is filed in good faith, no documentation will be placed in the complainant's file, regardless of the outcome. However, any person who knowingly and willfully submits a complaint based on false allegations shall be subject to disciplinary action and the documentation will be retained on his or her personal file.
8. Protection Against Retaliation
- 8.1 The Superintendent will not retaliate against an individual who reports sexual harassment, nor permit any person to do so. Retaliation against an individual:
- 8.1.1 For invoking this administrative procedure on their own or on another person's behalf; or
 - 8.1.2 For participating in or cooperating with an investigation under this administrative procedure; or
 - 8.1.3 For associating with a person who has invoked this administrative procedure,
- Will be treated as sexual harassment, and will be subject to the same disciplinary measures.
9. Disciplinary Measures
- 9.1 Where the complaint has not been informally resolved, individuals found to have engaged in sexual harassment will be appropriately disciplined. Disciplinary actions for persons who have engaged in sexual harassment, retaliated against a person who has filed a complaint, or filed a complaint in bad faith may include:
- 9.1.1 A requirement for a written apology;
 - 9.1.2 A written reprimand delivered to the harasser, and recorded in his/her personnel or student file;
 - 9.1.3 Referral to counseling;
 - 9.1.4 Transfer;
 - 9.1.5 Withholding of promotion;
 - 9.1.6 Demotion;
 - 9.1.7 Suspension or termination (for staff members or volunteers);
 - 9.1.8 Suspension or expulsion (for students); or
 - 9.1.9 A combination of the above as determined appropriate.
10. Appeal
- 10.1 The complainant and alleged perpetrator have the right of appeal outlined in student personnel appeal policies.

Reference: Criminal Code
Canadian Human Rights Act
Child Welfare Act
Individual's Rights Protection Act