

HARASSMENT AND ABUSE OF EMPLOYEES AND VOLUNTEERS

Background

In the Northern Lights School Division, we are committed to providing a safe and respectful work environment. The Division is committed to ensuring that no one, whether an employee or a volunteer is subjected to personal harassment, emotional abuse or physical abuse in the workplace or while engaged in Division sponsored activities. Any instances of harassment or abuse will be investigated and resolved quickly and effectively.

The Canadian Human Rights Act and the Canada Labor Code protect us from harassment. The Criminal Code protects us from physical assault. The Human Rights, Citizenship and Multiculturalism Act protect us from discrimination. We all have the right to live and work without being harassed or abused. If employees or volunteers are harassed or abused they can initiate action.

In addition, teachers must adhere to their Association's Code of Professional Conduct, which outlines acceptable practices and reporting procedures.

Definitions

1. "Abuse of Authority" occurs when a person uses authority unreasonably to interfere with an employee or the employee's job. It includes humiliation, intimidation, threats and coercion.

Abuse of authority does not include the legitimate exercise of a person's supervisory responsibilities, administrative authority or performance evaluations and processes undertaken in good faith in accordance with NLSD practice and procedure. It does not include normal managerial activities such as counseling, performance appraisals and discipline, as long as these are not done in a discriminatory manner.

2. "Complainant" means any employee or volunteer who is experiencing or has experienced personal harassment, emotional abuse or physical abuse.

3. "Emotional Abuse" includes acts or failure to act, that has caused or could cause, serious behavioral, emotional, or mental damage to a person including:

- Using extreme or bizarre forms of punishment;
- Threatening or terrorizing;
- Belittling or rejecting treatment;
- Humiliating an employee in front of co-workers;
- Using derogatory descriptions;
- Habitual scape-goating or blaming; or
- Abuse of authority

4. "Mediator" is an impartial third party who works with both sides to resolve a conflict by assisting the parties to reach an agreement. This is a person who is trained in the process of mediation and has the personal skills to deal with complaints of harassment or abuse. A mediator may be a trained NLSD employee or a qualified person contracted to mediate.

5. "Personal harassment" means any behavior either intentional or unintentional that disparages, humiliates or harms another person, or denies an individual's dignity and respect and is demeaning or humiliating to another person including but not limited to:

- References related to age, religion, gender, sexual orientation, sources of income and family status;
- References to race, national or ethnic origin;
- References to physical or mental capabilities;
- Discrimination related to race, national or ethnic origin, age, religion, gender, sexual orientation, physical or mental capabilities
- Offensive remarks or jokes related to the characteristics listed above;
- Behavior which supports a hostile environment;
- Intimidation or ostracism;
- Written or verbal abuse or threats;
- Offensive gestures;
- Abuse of authority, or
- Bullying

6. "Physical Abuse" includes the inflicting of physical injury upon a person either as a result of a willful act or by requiring an inappropriate or dangerous physical activity. It may be the result of excessive physical punishment, physical punishment that is inappropriate, or corporal punishment.

7. "Respondent" means any employee or volunteer who is accused of engaging in or has engaged in personal harassment, emotional abuse or physical abuse.

Procedures

1. Personal harassment, emotional abuse and physical abuse by any employee or volunteer against another employee or volunteer are strictly prohibited and will not be tolerated. All employees or volunteers have a right to work in a harassment and abuse free workplace environment and have the responsibility to treat others with respect and to report instances of harassment or abuse.

1.1 Conduct:

1.1.1 All employees or volunteers must conduct themselves in a manner which promotes and protects the best interests and well being of others in the workplace.

1.1.2 All employees or volunteers have a responsibility to speak up when they have experienced or are experiencing harassment or abuse and/or report the incident to the appropriate person identified in 3.1.3.

1.1.3 All employees or volunteers who have cause to believe that another employee or volunteer is experiencing or has experienced harassment or abuse is encouraged to report the incident to the proper authority identified in 3.1.3

1.1.4 All employee(s) shall comply with the Code of Conduct established by their professional organization or by their Union with regard to the notification of the respondent in a harassment or abuse complaint.

1.1.5 The Superintendent and all Division administrators shall set a good example and shall make it clear to all employees or volunteers that harassment and abuse will not be tolerated in this Division.

1.2 Response:

1.2.1 Allegations will be dealt with in a serious, expeditious and confidential manner when an informal complaint is made to a person in authority or another trusted person such as:

- The Principal or an Administrator;
- The complainant's supervisor;
- The respondent's supervisor; and/or
- A trusted person in authority.

1.2.2. When a formal complaint is made to the Superintendent, he/she shall carry out the provisions of this administrative procedure and shall deal with the allegation in a serious, speedy and confidential manner.

2. The Division and its administrators have the responsibility to deal with allegations of harassment and abuse in a serious, expeditious and confidential manner.

2.1 Education:

2.1.1 It shall be the responsibility of the Superintendent to see to the education of employees or volunteers about the contents of this administrative procedure, the procedures for investigating complaints and the consequences of violating the provisions of this administrative procedure. This education process can be undertaken through a variety of ways including, but not limited to:

- Orientation or information meetings
- Staff Meetings
- Memos or e-mail;
- Pay slip notices;
- Films
- Posters; and/or
- Brochures

2.2 Training:

2.2.1 It shall be the responsibility of the Superintendent to ensure that sufficient Division personnel are trained to investigate, mediate and counsel when cases of personal harassment, emotional abuse or physical abuse arise that require these skills and the use of Division personnel is appropriate.

2.2.2 It shall be the responsibility of the Superintendent to ensure that contract personnel with appropriate and adequate training and certification are available when cases of personal harassment, emotional abuse or physical abuse arise that requires these skills and the use of contract personnel is appropriate.

3. Processes will be established to ensure a timely resolution of cases of personal harassment, emotional abuse or physical abuse.

3.1 Informal Complaints:

3.1.1 Any employee or volunteer who believes he/she has been subjected to harassment or abuse shall as a first step make their objection known to the alleged offender directly or with the assistance of a third party.

3.1.2 A complainant should keep a carefully written record of any incidents of harassment or abuse by noting the date, time, nature of the behavior, and the names of any witnesses to the behavior.

3.1.3 When a complainant cannot make their objection known to the alleged offender directly or with the assistance of a third party, they are to make an informal complaint by speaking to or seeking the assistance of a person in authority or a trusted person.

An employee or a volunteer should go to:

- The Principal or an Administrator
- The complainant's supervisor
- The respondent's supervisor, and/or
- A trusted person in authority

A volunteer should go to:

- The Principal or an Administrator, and/or
- A trusted person in authority

3.1.4 Harassment or abuse complaints shall be made within a reasonable period of time from the date of the incident or the date of the last incident.

3.1.5 The complainant may, at any time after the initiation of an informal complaint, request that no further action be taken. This request does not surrender the complainant's right to pursue the complaint at a future time.

3.1.6 The respondent is to keep written notes of any conversation they have had with someone who has suggested that they have been harassed or abused by another person. They are to record the conversation, the date and time it happened, how they felt and what they did (if anything).

3.1.7 The respondent is to make notes of their version of the alleged harassment or abuse, the date and time it occurred, and any witnesses.

3.1.8 The person with whom the complainant made the informal complaint shall keep a record of all the details of the complaint and any subsequent actions and shall keep the record for 5 years.

3.2 Mediation:

3.2.1 The person in authority shall, as quickly as possible, act to resolve the situation by arranging for the complainant and the respondent to come together to resolve the complaint or by initiating a mediation process.

3.2.2. Employees have the right to have their Union representative or a person of their choice present at any arranged meeting or mediation sessions.

3.2.3 Mediation is a process whereby a neutral third party helps the people involved in the complaint reach a solution that is acceptable to both parties. The person in authority shall select a mediator from the pool of mediators identified by the Superintendent who is acceptable to both parties.

3.2.4 Either party has the right to refuse mediation.

3.2.5 When mediation is agreed to by both parties, each person (both the complainant and the respondent) has the right to be accompanied and assisted during the sessions by someone with whom they feel comfortable.

3.2.6 The mediator must be someone who is not involved in the complaint in any way and who will not be asked to represent the Division at any stage of the proceedings related to the complaint.

3.3. Formal Complaints:

3.3.1 In the event the complainant is unsatisfied with the informal resolution of the complaint or if they decide not to participate in an information resolution procedure they may file a formal complaint. A formal complaint supersedes any informal complaint resolution.

3.3.2 A formal complaint must be filed in writing with the Superintendent within one year of the incident(s) and shall contain:

- The name and position of the complainant
- The name and position of the alleged harasser or abuser
- Details of what happened
- Dates, times and how often the incidents occurred
- Where the incidents happened, and
- The names of any witnesses

3.3.3 The Superintendent shall inform forthwith the respondent and the supervisors of the complainant about the formal complaint.

3.4 Confidentiality

3.4.1 Harassment and abuse complaints are confidential. NLSD will not disclose a complainant's name or any circumstances related to a complaint, to anyone, except:

- To advise the respondent about the complaint and the identity of the complaint
- To investigate and respond to the complaint
- To take disciplinary action related to the complaint, and
- As required by law

3.4.2 All employees, volunteers, administrators and supervisors shall maintain confidentiality regarding all aspects of a complaint unless authorized by the Superintendent under clearly identified circumstances. Any unauthorized disclosure of confidential information relating to a harassment or abuse inquiry or complaint will result in disciplinary action.

3.5 The Investigation:

3.5.1 The Superintendent shall attempt to appoint an investigator who is acceptable to both parties. If agreement is not possible, the Superintendent shall, within 10 business days of the filing of the formal complaint, appoint an investigator and shall ensure that the process is expeditiously carried out.

3.5.2 The investigator shall interview the complainant, the alleged harasser or abuser and any witnesses. The investigator shall interview any other persons and gather any materials and information that may be necessary for the conclusion of the investigation. An investigation will involve:

- Obtaining all the pertinent information from the complainant;
- Informing the alleged harasser or abuser of the details of the complaint, and getting his/her response;
- Interviewing any witnesses;
- Gathering any information or materials necessary to the investigation;
- Deciding whether, on a balance of probabilities, the harassment or abuse did take place; and
- Recommending appropriate remedies, penalties, or other action.

3.5.3 All employees or volunteers have an obligation to cooperate with the investigation of complaints and efforts to resolve them.

3.5.4 The investigator shall submit a report of his/her findings to the Superintendent within 60 days of the formal filing of the complaint. In the report the investigator shall recommend appropriate remedies and/or disciplinary action and/or any other necessary action.

3.6 Conclusion and Decision:

3.6.1 After receiving the investigator's report, the Superintendent shall decide on what action to take, and will inform both parties, in writing, of the decision, any disciplinary action, remedies, and/or changes in work, within 7 business days of the report being submitted.

3.6.2 The action that the Superintendent determines as appropriate for the complainant, where the complainant is an employee, in the event that the conclusion was in favor of the complainant may include:

- An oral or written apology from the harasser or abuser and from NLSD;
- The reversal of any negative job actions resulting from the harassment or abuse; and/or
- Any other actions as deemed appropriate by the Superintendent.

3.7 Penalties:

3.7.1 Where a complaint was found to be true, any employee who was found to have subjected an employee or volunteer to personal harassment, emotional abuse or physical abuse will be subject to disciplinary action up to and including dismissal from employment. The disciplinary actions may include:

- A written reprimand;
- A suspension, in accordance with the act, regulations or the collective agreements;
- A transfer, if it is not reasonable for the people involved to continue to work together;
- Withholding of promotion;
- A demotion;

- A requirement to attend anti-harassment or anti-abuse training sessions; and/or
- Dismissal

3.7.2 Any volunteer who subjects an employee or volunteer to personal harassment, emotional abuse or physical abuse will be subject to disciplinary action up to and including exclusion from the school and other NLSL facilities or a charge under the School Act, Section 27 and 277 or any other applicable statute.

3.7.3 If there is not enough evidence to support an allegation of harassment or abuse and the Superintendent concludes that a formal complaint is unfounded there will be no penalties or remedies.

3.8 Complaints Made in Bad Faith

3.8.1 If the Superintendent concludes that the complaint was made in bad faith and was an intentionally false allegation, a range of penalties or sanctions may be imposed against the complainant similar to those found in 3.7 above. The penalty will be as deemed appropriate by the Superintendent.

3.8.2 If a person is unjustly accused of harassment or abuse, every effort will be made to have his/her name and reputation restored and will be given the benefit of any necessary remedies that would be given in a case of harassment or abuse.

3.9 Retaliation:

3.9.1 Anyone who retaliates in any way against a person who has complained of harassment or abuse, given evidence in a harassment or abuse investigation, or been found guilty of harassment or abuse, will themselves be found guilty of harassment or abuse and will be subject to the same penalties as a harasser or abuser as found in 3.7 above. The penalty will be as deemed appropriate by the Superintendent.

3.10 Records:

3.10.1 If there is not enough evidence to support an allegation of harassment or abuse and the Superintendent concludes that the formal complaint is unfounded, documentation will not be placed in the respondent's file unless he/she requests that specific documents be placed there. The Superintendent shall provide the respondent with a letter confirming his/her findings and that the complaint has been dismissed.

3.10.2 If the Superintendent finds that a formal complaint is unfounded; documentation relative to the case will not be placed in the complainant's personnel file unless he/she requests that specific documents be placed there.

3.10.3 If the Superintendent determines that a complaint is true, a record of the investigation, all information leading to the Superintendent's decision, any

disciplinary action and the final disposition of the case shall be kept in the respondent's file.

3.10.4 After a period of 5 years from the date the complaint was resolved, the respondent may request that all material related to the complaint be removed from his/her personnel file. The decision to remove information from the employee's personnel file shall be at the discretion of the Superintendent.

3.10.5 NLSD shall keep records of all formal or informal complaints filed under this administrative procedure. Such records shall contain at least the complaint, the respondent's statement; all documentation resulting from the investigation, where an investigation took place, the conclusion arrived at regarding the complaint and any disciplinary actions. These records shall be kept according to the following schedule:

- Where the complaint was found to be unfounded the record shall be kept for 5 years.
- Where the complaint was found to be true the record shall be kept for a minimum of 10 years.

3.10.6 All records kept under the provisions of this procedure shall be kept in accordance with the rules of the Freedom of Information and Protection of Privacy Act.

3.11 Appeals:

3.11.1 Either the complainant or the respondent may appeal to the Superintendent within 7 business days of being informed, in writing, of the decision. If the Superintendent finds that there is sufficient reason to re-investigate or to change the penalty, the Superintendent shall make that decision within 7 business days.

3.12 Other Avenues of Complaint:

3.12.1 The contents of this Administrative Procedure in no way affect the right of an individual to:

- File a complaint with the Alberta Human Rights and Citizenship Commission
- Seek other redress as may be provided by law; and/or
- Seek other redress as may be provided by an employee's Union or Association.

3.13 Monitoring:

3.13.1 All administrators and supervisory personnel have the responsibility to stop harassment and/or abuse in NLSD workplaces. If an administrator or supervisor becomes aware of harassment or abuse in any work area, they have a responsibility to take immediate and appropriate corrective action and do everything they can to stop it whether or not a formal or informal complaint has been made.

3.13.2 Administrators and supervisory personnel cannot use “not knowing” as an excuse. If a reasonable person should have known that harassment was going on, they will be held responsible if they let the situation continue. Administrators and supervisors who ignore harassment will face disciplinary action as determined by the Superintendent and may face legal responsibility.

3.13.3 The Superintendent, all administrators and supervisors must be open to comments from all parties affected by this administrative procedure and maintain a concerned and supportive Divisional atmosphere.

Reference: Section 27, 60, 61, 113 School Act
Freedom of Information and Protection of Privacy Act
Human Right, Citizenship and Multiculturalism Act
Canadian Human Rights Act
Individual Rights Protection Act
Canada Labor Code
Canadian Multiculturalism Act
Criminal Code