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# THE RESPECTFUL WORKPLACE

## GUIDELINES ADDRESSING WORKPLACE HARASSMENT AND DISCRIMINATION



*Revised August 25, 2016*

ANGELA GAUTHIER  
DIRECTOR OF EDUCATION

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CHAIR OF THE BOARD



**TORONTO CATHOLIC  
DISTRICT SCHOOL BOARD  
TRUSTEES 2015-2016**

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## MESSAGE FROM THE DIRECTOR AND CHAIR OF THE BOARD

The Toronto Catholic District School Board’s Multi-Year Strategic Plan identifies the creation of “a learning and work environment that is equitable and diverse, and that supports professional learning, innovation and collaboration.” It also reaffirms our commitment to the creation of a “culture of respect and professionalism that recognizes and promotes excellence and innovation at all levels of the organization.”

To support our vision, the Board has approved a policy on Harassment and Discrimination, and adopted the Respectful Workplace Guidelines.

The safety and well-being of everyone in our TCDSB community—staff, students, parents, trustees—is always our top priority. This means that we all must continue to work towards the creation of learning and working environments that are free from harassment and abuse, that are caring and welcoming, that are professional and supportive. It also means that each and every one of us must have the confidence to take appropriate action when we see that someone is not being treated with respect. Moreover, as a Catholic community, we are called to love and respect ourselves and others, and to reach out to those whose dignity and self-worth is being diminished in any way.

We invite you to familiarize yourself with the policy and the resource materials so that you can be an active participant in the fostering of nurturing, caring and respectful environments in our schools and offices.

Sincerely,

*Angela Gauthier*  
*Director of Education*

*Angela Kennedy*  
*Chair of the Board*

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*“Flowers don't bloom where no seeds have been planted. If you want kindness, be kind. If you want acceptance, be accepting. If you want encouragement, be encouraging. If you want forgiveness, be forgiving. If you want love, be loving. If you want respect, be respectful. We should not expect from others what we fail to give to them.”—Tom Krause*

## ACKNOWLEDGEMENTS

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## PREFACE

The harassment and discrimination policy and program of the Toronto Catholic District School Board is deeply rooted in Catholic teaching. It affirms the Catholic claim which states that all persons are created in the image of God and therefore have an intrinsic worth that transcends social structures. A person's dignity forms the basis of the claim for inherent rights in both the political and economic spheres.

Too often, this insistence on human dignity as the basis for social interaction is denied to people. This is especially the case in relation to women. As John-Paul II states in *Familiaris Consortio*:

Unfortunately the Christian message about the dignity of women is contradicted by that persistent mentality which considers the human being not as a person but as a thing, as an object of trade, at the service of selfish interest and mere pleasure: the first victims of this mentality are women.

This mentality produces very bitter fruits, such as the contempt for men and for women, slavery, oppression of the weak, pornography, prostitution - especially in an organized form - and all those various forms of discrimination that exist in the fields of education, employment, wages, etc.

The principle of the human person as the *Imago Dei* is also at the heart of John-Paul's theology of work. Because God is active in creation, work serves as a means for the human person to live out that image by working with creation. To that end, the dignity of human work can only be achieved when the dignity of the human person is affirmed and considered essential to the social operation of the work place. As John-Paul states in the encyclical *Laborem Exercens*:

...the whole labour process must be organized and adapted in such a way as to respect the requirements of the person and his or her forms of life... It is a fact that in many societies women work in nearly every sector of life. But it is fitting that they should be able to fulfil their tasks in accordance with their nature, without being discriminated against and without being excluded from jobs for which they are capable... within the sphere of these principal rights, there develops a whole system of particular rights which, together with remuneration for work, determine the correct relationship between worker and employer. Among these rights there should never be overlooked the right to a working environment ... which is not harmful to the workers' physical health or to their moral integrity.

For these reasons, the TCDSB harassment and discrimination policy and program is committed to providing an environment where women, men, and children can live in decency and dignity without fear of being exploited or harmed. In doing so, the policy affirms the Church's teachings that all God's children share a common dignity and deserve to be treated with the respect and consideration worthy of followers of Christ.

## STATEMENT OF COMMITMENT

The inherent right of all individuals to be treated with dignity and respect is central to Catholic values and Christian beliefs. The Toronto Catholic District School Board, hereinafter known as the “Board”, is a Catholic educational community and is therefore committed to the creation of a working and teaching environment which fosters mutual respect for the dignity and well-being of all employees and other TCDSB stakeholders.

Harassment is contrary to Catholic values and undermines the Board’s mission of an inclusive learning community rooted in the love of Christ where students are educated to grow in grace and knowledge and to lead lives of faith, hope and charity.

Harassment poisons the work environment for employees and other TCDSB stakeholders. It negatively affects morale, motivation and job performance. It results in increased absenteeism, turnover, inefficiency and loss of productivity.

The Board is committed to providing an environment that promotes professionalism and ethical behaviour consistent with its Code of Conduct. It therefore, requires all persons to exercise behaviour that facilitates the creation of a working environment that is conducive to the achievement of excellence and the development of one’s potential. Harassment constitutes behaviour which undermines the maintenance of a professional workplace.

Harassment and discrimination as defined under legislation and in the Harassment and Discrimination policy (H.M.14) will not be tolerated by the Board. In keeping with its values and legal responsibilities as an employer, the Board will treat any complaint of harassment and discrimination as a serious matter.

These Guidelines setting out the Board’s program in respect to workplace harassment shall be reviewed as often as necessary, but at least annually, to ensure that it adequately implements the Board’s policy with respect to workplace harassment.

## PURPOSE

The purpose of the TCDSB Harassment and Discrimination Policy (H.M.14) along with the Respectful Workplace Guidelines, is to create and maintain an environment that is free from harassment. The Policy and Guidelines set a clear statement of the Board's commitment to maintaining Catholic values in its workplace and its determination to act promptly to address any incident of harassment and to create an environment where harassment will not be tolerated.

The objectives of the Policy and Guidelines are to:

- Demonstrate and promote the commitment of the Board to protecting the dignity and rights of its employees and members of the TCDSB community
- Alert and educate employees, volunteers, parents, permit holders and elected officials of the Board to the fact that harassment is prohibited under the laws of the Province of Ontario as well as being contrary to Catholic values
- Establish measures to prevent and/or stop harassment by and against its employees, registered volunteers and elected officials
- Take immediate action and provide confidential, impartial and effective procedures to resolve complaints in ways that respect the rights of all parties
- Provide appropriate remedies to complainants in recognition of the impact of harassment
- Identify various roles and responsibilities for the maintenance of a harassment-free workplace
- Provide appropriate responses and consequences in situations where harassment has occurred

## DEFINITIONS

### LEGISLATION

The *Occupational Health and Safety Act* and the *Human Rights Code* of Ontario establish an employee's right to freedom from harassment in the workplace and an employer's corresponding obligation to provide a workplace that is free from harassment.

Subsection 1(1) of the *Occupational Health and Safety Act* defines

**“workplace harassment”** as,

- (a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or
- (b) workplace sexual harassment; (“harcèlement au travail”)

and

**“workplace sexual harassment”** as,

- (a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- (b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome; (“harcèlement sexual au travail”)

Section 5 of the *Human Rights Code* states:

- (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.
- (2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

Section 7(2) of the *Human Rights Code* states, “Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by his or her employer or agent of the employer or by another employee.”

#### TCDSB HARASSMENT AND DISCRIMINATION POLICY (H.M.14)

The following definitions are found in the TCDSB Harassment and Discrimination Policy (H.M.14):

**Discrimination:** Unfair treatment because of race, sex, colour, ancestry, place of origin, ethnic origin, marital status, sexual orientation, age, disability, citizenship, family status, record of offences, religion (creed), gender identity or gender expression.

**Workplace:** The workplace is any place where employees, contract employees, volunteers and trustees and other users perform work or work-related duties or functions. Schools and school-related activities, such as extracurricular activities and excursions, comprise the workplace, as do Board offices and facilities. Conferences and training sessions are included within this policy.

#### DEFINITIONS RELEVANT TO THESE GUIDELINES

**Complainant:** The complainant is the person who believes they were harassed or discriminated against.

**Respondent:** The respondent is the person who is alleged to have engaged in harassment or discrimination.

**Mediated Complaint Resolution:** An informal process whereby the complainant seeks advice or assistance to address the problem with the respondent. The process attempts to resolve the alleged harassment at the lowest level. There are no formal written records or finding (decision).

**Formal Complaint Resolution:** A process which is initiated by a written complaint by the claimant to the Superintendent of Human Resources. It requires official investigation of the complaint within a formalized framework. A finding (decision) will normally result, documentation will be in official files and disciplinary action may result.

## RESPONSIBILITIES

### A SHARED RESPONSIBILITY

While employees share responsibility for understanding and preventing harassment and discrimination in the workplace, it is important to recognize that, under law, administrators carry more responsibility than other employees.

Boards of inquiry convened under the Human Rights Code have held that those who have the authority to prevent the continuation or repetition of harassment may be accountable for failing to exercise their ability to do so. This accountability extends to anyone in a management or supervisory position. The Board is responsible for responding to complaints of harassment and discrimination regardless of the relationship between the people involved.

### TRUSTEES

It is the role of the Board of Trustees to ensure compliance with the Policy through the following measures:

- Provide the Director of Education with the necessary resources to implement the Policy
- Consider the advice of the Director of Education on future development and improvement of this Policy and encourage the development of parallel policies that will enhance the workplace and subsequently improve the provision of a Catholic education within the community

### DIRECTOR OF EDUCATION

The responsibility of the Director of Education is to ensure compliance with the Policy as follows:

- Be a role model and showing respect for the dignity of others by speaking out against harassment and discrimination when it is encountered
- Develop and implement policies and procedures that discourage employment-related harassment and discrimination
- ensure that all employees are provided with information about the nature of harassment and discrimination and are informed about the Policy, their rights and responsibilities
- ensure that the appropriate staff facilitate the implementation of this Policy by providing the training and resources for personnel to fulfil their responsibilities under this Policy
- ensure that corrective measures are taken and disciplinary measures are imposed quickly and without undue delay when a complaint is substantiated, regardless of the seniority of the offender
- ensure that it is formally acknowledged in writing to a person who has been found to have been harassed that harassment has taken place
- monitor the implementation of the Policy to ensure that procedures adequately meet Policy objectives and that all complaints are being treated seriously

## SUPERINTENDENT OF HUMAN RESOURCES

The role of the Superintendent of Human Resources/Designate is to:

- investigate every formal written complaint of harassment and discrimination
- carry out the steps as stated within the formal investigation process
- document and maintain a confidential record of formal complaints
- be responsible for the security and confidentiality of complaint files after a complaint is discontinued or resolved
- appoint persons who are themselves employees of the Board to serve as facilitator(s) under this Policy.
- arrange for the facilitator(s) to receive appropriate initial and continuing training as well as other institutional support and assistance for carrying out their responsibilities under this Policy.

## SUPERVISORY PERSONNEL

Associate Directors, supervisory officers, principals, administrative department heads and other supervisors are responsible for:

- being a role model and showing respect for the dignity of others by speaking out against harassment and discrimination when it is encountered
- making every reasonable effort to provide an environment which is free of harassment and discrimination
- approaching employees with concerns about inappropriate behaviour and advising them that it must stop
- receiving and handling complaints with the support of the Coordinator of Conflict Resolution
- assisting in resolution at an mediated level when requested by either one or both parties
- conducting preliminary fact finding
- protecting the complainant or participants in investigations against reprisals in the workplace

## CONFLICT RESOLUTION PERSONNEL OR ASSIGNED PERSONNEL

The Conflict Resolution department has dual responsibilities both as advisors and as facilitators. The role of the advisor is to:

- provide information and advice on the application and scope of the Policy to all employees
- provide advice and support to persons who are subjected to harassment and discrimination
- provide information on ways to resolve a harassment and discrimination complaint
- advise complainants and respondents of rights under this Policy and the availability of counselling and other support services
- facilitate the training of personnel involved in implementing the Policy

- monitor the operation of the Policy and recommend improvements to the Board
- conduct investigations when designated by the Superintendent of Education, Human Resources

#### FACILITATOR(S)

A facilitator is a professionally trained individual appointed within the Board to work with the parties to establish an agenda, suggest and enforce ground rules, keep the discussion on track, and offer suggestions on how the parties may achieve their objectives. Facilitator(s), including staff from the Conflict Resolution Department, when acting in that capacity, will advise the parties of:

- the right to undertake the mediated resolution procedure and/or the right to lay a formal written complaint under this Policy
- availability of counselling or other support services provided by the Board or Professional Association or Union
- the right to be accompanied by a Professional Association or Union and/or bargaining unit representative at any stage of the process where the complainant is required or entitled to be present
- the right to withdraw a complaint, should the complainant no longer wish to proceed with further action. However, should the Board have any information that suggests harassment and discrimination is occurring, it has a legal responsibility to proceed with the investigation

#### EMPLOYEES, CONTRACTED EMPLOYEES, AND VOLUNTEERS

Employees who feel that they are victims of harassment and discrimination have a right under this Policy to report their concerns to their supervisor or other appropriate contact.

Employees who witness harassment and discrimination have a moral responsibility to uphold the Policy and are encouraged to report.

Any employee found to have engaged in any type of harassment may be subject to disciplinary action up to and including dismissal.

Any other TCDSB stakeholder found to have engaged in any type of harassment may be subject to disciplinary action, including issuance of a letter of trespass.

## BEGINNING THE PROCESS

### HARASSMENT- THE DISCERNMENT PERIOD

When an individual is considering whether they have been subjected to harassment, they need to ask:

Was the behaviour unwelcome?

Was the behaviour personally threatening, intimidating, demeaning, humiliating or embarrassing?

Was it deliberate?

Has the behaviour created a negative work environment for you? Has it been a course of behaviour over time?

Have you let the individual know the behaviour is unwelcome?

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

- verbal comments such as name calling; insults; threats; slurs; crude, degrading or suggestive remarks; offensive songs or recordings, demeaning racial or ethnic remarks and jokes or innuendoes;
- communication by means of written or graphic materials, unwanted notes, letters, e-mails, social media comments, or text messages, for example the display of racist, derogatory or offensive pictures, graffiti or other materials;
- use of stereotypical images or language, for example jokes and anecdotes, which suggest that all or most employees of a particular identity are the same;
- differential treatment, and the avoidance or exclusion of any group or individual, for example the refusal to converse or work with an employee because of his/her racial or ethnic background;
- any activity or behaviour, not necessarily directed at anyone in particular that creates a hostile or offensive workplace;
- abuse of authority such as acts or misuse of power as intimidation, threats, blackmail or coercion.

### QUESTIONS AND CONTACTS

If you have questions and need advice contact any of the following:

- Your immediate supervisor, Principal , Superintendent, or
- The Conflict Resolution Department at 416-222-8282, ext. 2363.
- Your professional Association or Union representative:
  - OEFTA – TORONTO SECONDARY UNIT – 416-633-5502
  - OEFTA - TORONTO ELEMENTARY CATHOLIC TEACHERS – 416-398-6838
  - OEFTA – TORONTO OCCASIONAL TEACHERS – 416-636-5644

- CUPE – 1328 – 416-512-9493
- CUPE – 1280 – 416-825-7799
- CUPE - 3155 – 416-393-5309
- ASSOCIATION OF PROFESSIONAL STUDENT SERVICES PERSONNEL – 416- 222-8282 ext. 6471

All enquiries will be confidential.

#### REPRISAL

No form of reprisal, whether actual or threatened, against a person who initiates or contemplates initiating a complaint of harassment or discrimination or a witness that cooperates in a formal investigation will be tolerated by the Board. This is subject to the section on Frivolous or Vexatious Complaints.

If an individual has concerns about potential reprisal or feels he or she is being subjected to reprisal, they are encouraged to contact the Conflict Resolution Department and/or his or her Association.

#### SCOPE OF APPLICATION

##### A. WORKPLACE

The Policy and Guidelines will be enforced where activities related to the business of the Board take place. These include:

- activities within offices, staff rooms, classrooms, cafeterias/lunch rooms and other Board property
- events associated with and including co-instructional and extra-curricular activities
- situations outside of Board operated premises e.g. field trips, external work assignments, work-related conferences, training sessions, travel or social gatherings
- activities in other locations where harassment may have a subsequent impact on the work relationship, performance or environment.

##### B. INDIVIDUALS

All persons working for the Board or carrying out Board business are covered by the Policy. These include teaching and non-teaching staff who are temporary, part-time and full-time employees. The Policy also applies to elected officials, members of boards and committees, registered volunteers and permit holders.

## MEDIATED COMPLAINT RESOLUTION

All complaints will be treated seriously. There are two internal processes that may be pursued—mediated and formal. The individual may use either process or both.

In the mediated process, each relevant TCDSB stakeholder retains the right to decide how to respond to harassment, including either verbal or written communication with the respondent, in order to resolve the situation. As a complainant, you may contact a superordinate/field superintendent/appropriate supervisory officer, union/association representative and/or the Conflict Resolution Department to discuss the situation and how it might be resolved. At this stage, since only advice is being sought, names need not be disclosed. All such enquiries to a third party will be treated as confidential and the complainant is under no obligation to file a formal complaint.

The complainant may choose to go directly to the formal process or utilize both the mediated and formal stages.

1. As soon as possible, the complainant is advised to make a record of the details surrounding the incident(s) including times, dates, places, names of witnesses, if any, and circumstances surrounding the incident(s).
2. The complainant may wish to speak directly to the person involved in the alleged harassment.

The complainant may choose to do this alone or in the presence of another Board employee, facilitator, staff from the Conflict Resolution Department, Professional Association or Union or bargaining unit representative. If the complainant chooses to speak to the person, it would be helpful to make a note of the conversation that took place. The complainant should tell the person calmly but firmly that the behaviour is unwelcome and must stop. This is often an effective way to end the harassment. For example, the complainant may wish to say “when I am called ‘\_\_\_\_\_’ (statement of fact), I feel belittled and insulted (impact statement). Please refer to me by my name (needs, wants, preferences)”.

3. The complainant may wish to advise the person by written communication (e-mail or letter). If one chooses this option, it is advisable to keep a copy of the letter and proof that it was received, such as a courier or a registered mail receipt. In order to protect confidentiality and to ensure receipt, the use of e-mail is not advised.

### Some Helpful Hints in Writing a Letter or E-mail:

- be brief
- be factual and clear
- give dates, time and location
- describe the specific incident

- state the impact on you (i.e. how it made you feel)
- state what you would like to have happen
- sign your letter

4. If the complainant is not satisfied with the results of the initial contact with the respondent or if the harassment continues, the complainant may wish to contact the Conflict Resolution Department to request the presence of a facilitator. A facilitator is a neutral third party who assists with the discussions so that the parties may focus on the substantive issues and work toward achieving a satisfactory resolution.
5. The complainant may wish to consider counselling to help deal with the psychological and emotional impact of these events. Suggestions for counsellors can be obtained from the Conflict Resolution Department or a Professional Association or Union/bargaining unit representative.
6. No formal written records are completed at this stage for inclusion in an official file although both parties and any third party should keep personal documentation of the meetings.
7. If the harassment incident is not resolved at the mediated stage, the complainant may choose to initiate the next option - the Formal Complaint Resolution process.

## FORMAL COMPLAINT RESOLUTION

### COMPLAINT AGAINST TCDSB EMPLOYEE OR REGISTERED TCDSB VOLUNTEER

1. If the complaint is against an employee or registered volunteer of the Board, the complainant will submit a written complaint to the Superintendent of Human Resources/Designate, with a copy to the appropriate supervisory officer.

A signed written complaint shall include: Identification of the individual(s) involved and a clear description of the incident(s) of harassment and discrimination including times, dates, places and names of witnesses, if any.

Assistance with the writing of the complaint may be obtained from any supervisor/superintendent one feels comfortable with, the staff from the Conflict Resolution Department, or a representative from a Professional Association or Union.

2. If, upon receiving a complaint, the Superintendent of Education, Human Resources or his/her designate determines that the conduct complained of (even if it occurred) does not fall within the definition of harassment or discrimination, the procedures outlined in this policy do not apply. In that case, no investigation under this policy will ensue. Depending on the circumstances, the concerns may be addressed and/or investigated under another Board policy, alternative dispute resolution process, or through the grievance process (if applicable).
3. The Superintendent of Human Resources/Designate will confirm in writing to the complainant, receipt of the complaint within seven (7) working days.
4. The Superintendent of Human Resources/Designate will forward a copy of the complaint to the respondent within seven (7) working days of receipt of the complaint.
5. The fact-finding investigation process shall begin within ten (10) working days but no later than fifteen (15) working days of the request to the Superintendent of Human Resources unless circumstances dictate otherwise.
6. The Superintendent of Human Resources may conduct the investigation directly, or may assign a Designate(s) to act in this role. In order to ensure objectivity, the designation of investigators will be determined by the needs of the complaint, and may include the use of trained Board personnel such as staff from the Conflict Resolution Department, Administrators (in the cases involving parental harassment) and/or external consultants. The goal in determining who should investigate the complaint will be to ensure full objectivity, freedom from conflict of interest and an absence of a power imbalance.

7. The investigation shall conclude within seventy (70) working days from the commencement of the investigation unless circumstances dictate otherwise.
8. The Superintendent of Human Resources/Designate will discuss the complaint separately with the two parties, and may consult with others who are in a position to provide relevant information. Both parties may recommend relevant witnesses. Both parties and all witnesses have the right to union representation during these and any other discussions during this process. Witness participation is voluntary. The Board cannot compel witnesses to participate in this process.
9. With respect to members of the Ontario Teachers' Federation, in accordance with Section 18 "Duties of a Member to Fellow Members" of the Regulation made under the *Teaching Profession Act*, (1) A member shall, [...] (b) on making an adverse report on another member, furnish him with a written statement of the report at the earliest possible time and not later than three days after making the report; (c) notwithstanding section 18(1)(b), a member who makes an adverse report about another member respecting suspected sexual abuse of a student by that other member need not provide him or her with a copy of the report or with any information about the report.
10. Following the interviews, documentation will be prepared by the Superintendent of Human Resources/Designate, or the external consultant, if one has been assigned, based on the information provided during the interviews.
11. Both parties will be given a copy of a summary report which will provide the results of the investigation and any corrective action that has been or that will be taken as a result of the investigation. Both parties will have the opportunity to respond to the findings within ten (10) working days of receipt of the report.
12. Upon receipt of the investigator's report, the Superintendent of Human Resources/Designate will meet separately or together with the relevant parties to resolve the complaint. If the incident is resolved at this stage, no further action will be taken.
13. In the event a complainant or respondent to a formal complaint has one or both of the specific concerns set out below, within ten (10) days of receipt of the decision, a request may be made by either the complainant or the respondent to the Director of Education to review the decision.
14. The grounds for review are:
  - the investigators did not comply with the procedures set out in this Policy; or

- new evidence has become known after the decision but before the expiry of the ten (10) working days limitation period for requesting a review.
15. No review of the decision will be undertaken with regard to the claim that the conclusions drawn by the investigator(s) based on findings of fact were incorrect.
  16. A review will affirm or amend a decision or require that a new investigation be undertaken.
  17. The complainant, at any stage, may choose to withdraw the complaint. The Board, however, may still be obliged to investigate.
  18. The provisions of this Policy do not take away an employee's right to take action outside of its provisions. For example, using any of the internal options does not mean one cannot exercise other rights such as filing a complaint directly to the Ministry of Labour or the Ontario Human Rights Tribunal.

## COMPLAINT AGAINST A TCDSB NON-EMPLOYEE STAKEHOLDER

1. If the complaint is against another member of the TCDSB community other than an employee, (e.g. parent or student) the complainant will submit a written complaint to the School Administrator/ Supervisor with a copy to the appropriate Supervisory Officer.
2. The School Administrator/Manager may conduct the investigation directly or may assign a Designate to act in this role. The School Administrator/Manager may consult with the Conflict Resolution Department for advice on conducting the investigation or exploring other dispute resolution options.
3. The fact-finding investigation process shall begin within ten (10) working days but no later than fifteen (15) working days unless circumstances dictate otherwise. The investigation shall conclude within thirty (30) working days from the commencement of the investigation unless circumstances dictate otherwise. If necessary, the School Administrator/Manager will put safety measures in place until the investigation process is completed.
4. The School Administrator/Manager will discuss the complaint separately with the two parties, and may consult with others who are in a position to provide relevant information. Both parties may recommend relevant witnesses. Employees involved in this process including all witnesses have the right to union representation during these and any other discussions during this process. Witness participation is voluntary. The Board cannot compel witnesses to participate in this process.
5. Once the investigation is completed, both parties will be given a copy of a summary report which will provide the results of the investigation and any corrective action that has been or that will be taken as a result of the investigation. The School Administrator/ Manager will meet separately or together with the relevant parties to review the outcome of the investigation and attempt to resolve the complaint. If the incident is resolved at this stage, no further action will be taken.

If the complaint is not resolved at this stage, recommendations may be considered to remedy the situation including alternate forms of dispute resolution.

6. In the event a complainant has one or both of the specific concerns set out below, within ten (10) working days of receipt of the decision, a request may be made by either the complainant or the respondent to the area Supervisory Officer to review the decision.
7. The grounds for review are:

- the School Administrator / Supervisor and or Designate did not comply with the procedures set out in this Policy; or
  - new evidence has become known after the decision but before the expiry of the ten (10) working days limitation period for requesting a review.
8. No review of the decision will be undertaken with regard to the claim that the conclusions drawn by the School Administrator / Supervisor and or Designate(s) based on findings of fact were incorrect.

A review will affirm or amend a decision or require that a new investigation be undertaken.

9. The complainant, at any stage, may choose to withdraw the complaint. The Board, however, may still be obliged to investigate.

## COMPLAINT AGAINST A TRUSTEE

1. If the complaint is against a Trustee, the complainant will submit a written complaint to the Director of Education.
2. The Director of Education will review the complaint and provide a copy of the complaint to the Chair of the Board and to the trustee who is the subject of the complaint.
3. Both parties may recommend witnesses who have knowledge of the matter to the Chair of the Board and Director of Education. A witness who is a member of a trade union or professional association shall have the right to representation by their union or professional association during this process.
4. The Chair of the Board and the Director of Education together will discuss the complaint with both parties, and may consult with others who may have relevant information.
5. Both parties will be given a copy of a summary report which will provide the results of the investigation and any corrective action that has been or that will be taken as a result of the investigation.
6. In the event that the complainant or the Trustee is not satisfied with the proposed resolution of the complaint, the Chair of the Board and the Director of Education will report the matter to the Board of Trustees in private session.
7. The provisions of this policy do not preclude either party from legally available dispute resolution proceedings.

## COMPLAINT AGAINST THE DIRECTOR OF EDUCATION

1. If the complaint is against the Director of Education, the complainant will submit a written complaint to the Chair of the Board of Trustees.
2. The Chair of the Board of Trustees will review the complaint and may make recommendations to the complainant and/or the Director of Education to resolve the complaint.
3. The Chair of the Board of Trustees will investigate the matter within ten (10) working days of receiving the complaint unless, in the judgment of the Chair of the Board of Trustees, circumstances indicate a different timeline is advisable.
4. Both parties may recommend witnesses who have knowledge of the matter to the Chair of the Board of Trustees. A witness who is a member of a trade union or professional association shall have the right to representation by their union or professional association during this process.
5. The Chair of the Board of Trustees will discuss the complaint with both parties, either separately or together, and may consult with others who may have relevant information.
6. Both parties will be given a copy of a summary report which will provide the results of the investigation and any corrective action that has been or that will be taken as a result of the investigation. The Chair will inform Trustees in private session.
7. In the event that the complainant or the Director of Education is not satisfied with the proposed resolution of the complaint, the Chair of the Board of Trustees will report the matter to the Board of Trustees in private session.
8. The provisions of this policy do not preclude either party from legally available dispute resolution proceedings.

## OTHER CONSIDERATIONS

### HOW POWER IMBALANCES CAN CONTRIBUTE TO HARASSMENT

The fact that a person does not explicitly object to harassing behaviour does not mean that the behaviour is not harassing or is being assented to. Wherever possible, the Board encourages individuals to be explicit about actions or behaviours that are unwanted and to request that such actions or behaviours cease and desist. However, the Board recognizes that it may not always be possible or advisable to directly confront offenders in cases of serious violations or where there are significant power imbalances in the working relationship.

However, it is important to note that the exercise of supervisory responsibilities, including training, performance appraisal, direction, instruction, counselling and discipline does not constitute harassment as long as these are not being exercised in a discriminatory or intimidating manner. Personality clashes and/or interpersonal conflict do not, in and of themselves, constitute harassment. This policy is not intended to address concerns that individuals may have regarding leadership, communication style, or overall performance of Board employees/teaching staff/administrators. The policy cannot be used as a recourse for dealing with a performance appraisal, and the complaints procedures outlined herein should not be invoked for these purposes. The complaint procedures are intended to address workplace harassment and discrimination only.

While a healthy work and learning environment can include appropriate humour. Care must be taken to ensure that the use of humour is not offensive, degrading, discriminatory, or otherwise a violation of this policy or the Code.

### CO-OPERATION OF PARTIES

It is fully expected that all parties, including the complainant, the person complained against and/or relevant witnesses, will fully cooperate in the Board's investigation of a complaint of harassment. However, if one or more parties fail or refuse to cooperate, the investigation may proceed utilizing the evidence and information available.

### TIME LIMIT FOR FILING COMPLAINT

Any complaint must be filed within a reasonable time following the occurrence of the event. The Board adopts the six month time frame for reporting a complaint and in its discretion, may decide not to deal with the complaint when the facts upon which the complaint is based occurred more than six months before the complaint was filed.

### TIME

The time limits set out in the Board's Policy can be extended if, upon the determination of the Board, there is an appropriate reason for doing so or if both parties agree.

## NEUTRALITY OF THE INVESTIGATION

All those who are part of the investigation team must ensure an impartial and effective resolution of complaints.

The Board may select an external consultant to assist with an investigation, if this would best serve the investigation and the resolution of the complaint.

## INTERIM MEASURES PENDING INVESTIGATION

Where a formal complaint has been filed, depending on the circumstances of each case, interim measures may be implemented including but not limited to relocating either the complainant and/or respondent to another location while the investigation is being conducted. Such action will be considered on a case-by-case basis to protect the interests of relevant parties.

## APPEAL PROCESS

If the complainant or respondent is dissatisfied with the resolution, either individual may file a formal complaint with the Human Rights Tribunal of Ontario or the Ministry of Labour.

## CONFIDENTIALITY

The Board understands that it is difficult to come forward with a complaint of harassment and discrimination and recognizes a complainant's and respondent's interest in keeping the matter confidential including not revealing the identities of relevant witnesses cooperating in formal investigations.

To protect the interests of those involved, confidentiality will be maintained throughout the process to the fullest extent practicable and appropriate under the circumstances. Within the work environment of both parties, it is important that all involved work to ensure that individual privacy and confidentiality are respected. Any breach of confidentiality may be subject to appropriate disciplinary action.

All relevant documents and records regarding harassment and discrimination allegations including identifying information about any individuals involved will not be disclosed or accessible to any Board staff other than the appropriate Superintendent of Education, the investigators, Board Counsel and the Director of Education as necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint. However, records may be subject to release under the provisions of the Municipal Freedom of Information and Protection of Privacy Act. A complaint under the Human Rights Code, or legal proceedings may require disclosure of any information collected.

If warranted, meetings and interviews may take place at a neutral site rather than at the school or Board offices.

## RECORD KEEPING

The Superintendent of Human Resources will be the custodian of the records and documents, and, as such, will ensure confidentiality of all materials. These files may include the names of complainants and respondents, the nature of the alleged harassment, correspondence between parties, meetings, including dates and names of attendees, information regarding the investigation process and disposition of the complaint. If the complaint is upheld, the Board shall take appropriate disciplinary action, including a letter of reprimand or letter of termination to be retained in the personnel file of the respondent. If the complaint is upheld, a letter to the complainant indicating that corrective action has been taken, will be held in the harassment file of the Superintendent of Human Resources. In order for monitoring to occur in cases where a complaint has been upheld, a summary of the allegations and recommendations may be forwarded to the appropriate supervisor.

If the complaint is not upheld, a letter will be sent to the parties notifying them of such. In general, the letters to the complainant and the respondent will be kept in the file of the Superintendent of Human Resources. The Board, however, reserves the right to include the letters in the respective personnel files of the complainant or respondent. If no further complaint against the respondent is received within seven (7) years, subject to any provisions in appropriate collective agreements, the contents of the investigating file will be destroyed.

## CORRECTIVE ACTIONS

### Respondent

Where it is concluded that a complaint has been substantiated, the seriousness of the occurrence will determine the Board's disciplinary response.

Responses may include but not be limited to:

- i. a written reprimand delivered to the respondent with a copy to the respondent's personnel file
- ii. transfer
- iii. withholding of a promotion
- iv. demotion
- v. suspension with or without pay
- vi. dismissal
- vii. report to the Ontario College of Teachers, or other professional colleges

In addition to disciplinary responses, other responses may include but not be limited to:

- i. counselling for the parties
- ii. specific training for the respondent
- iii. an appropriate workshop or course
- iv. an in-service to be delivered to relevant parties, or all staff as appropriate

In circumstances where a complaint has been substantiated, the onus is on the Board to consider first and foremost the impact on the complainant.

Thus, where a complaint has been substantiated and the complainant does not feel comfortable in the same school or work environment as the respondent, the Board may, among other responses, transfer the respondent to another school or work location.

The complainant will be informed that corrective action has been taken and asked to report any further incidents of harassment or reprisal. In order to prevent a recurrence of harassment, the respondent's professional conduct will be monitored by the appropriate supervisor.

### PROFESSIONAL RELATIONSHIP

Whether the complaint has or has not been substantiated, the parties may wish to discuss the continuance of their professional relationship. In these circumstances, the Superintendent of Human Resources/Designate may appoint a mediator/facilitator to meet with the relevant parties either together or individually to discuss their future work relationship.

### FRIVOLOUS OR VEXATIOUS COMPLAINTS

The Board does not condone frivolous or vexatious complaints. If it is determined as a result of an investigation that a complaint was made maliciously with intent to harm or made in bad faith, formal disciplinary action will be taken against the complainant, including, but not limited to: a letter of reprimand, report to the Ontario College of Teachers or other professional colleges, a letter of trespass, suspension or possible termination of employment.

Such disciplinary action will be placed in the employee's personnel file. The complainant has the right to receive written notification of this conclusion including reasons and grounds, to respond to it and be represented at all subsequent proceedings.

## EDUCATION AND TRAINING

The Conflict Resolution Department has developed mechanisms to ensure that all employees, volunteers, parents, visitors, permit holders and elected officials of the Board are informed of the existence of the Harassment and Discrimination Policy and Guidelines and its provisions by:

- Distributing pertinent information to all employees in pamphlet form
- Providing direct or indirect in-servicing to employees
- Ensuring the Policy and The Respectful Workplace, Addressing Harassment and Discrimination Guidelines, are available at all worksites and on the Board's website.
- Providing an online video tutorial regarding harassment and discrimination in the workplace
- Acknowledging the Board's Harassment and Discrimination Policy on documents where appropriate

All Board employees shall be in-serviced on the Harassment and Discrimination Policy and New staff members shall be informed of the Harassment Policy and Guidelines during the orientation process.

Special training will be provided for those persons involved in the implementation of the Policy to help them develop knowledge and skills in the following areas:

- terms of the Harassment and Discrimination Policy
- human rights and other relevant legislation
- how to recognize harassment
- how to handle complaints with sensitivity and empathy
- how to advise and prepare an employee who wishes to confront an alleged harasser and how to recognize situations where this may be inappropriate
- how to intervene if one recognizes that harassment is occurring
- investigation techniques

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