



**POLICY:**  
**SUBJECT:**  
**APPROVAL DATE:**  
**REVISION DATE:**

**GCPDA**  
**HARASSMENT PREVENTION**  
**November 10, 1987**  
December 6, 1994, February 16, 2004,  
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The Winnipeg School Division is committed to creating a diverse and inclusive community where every person can work and learn in an environment that is supportive of productivity and academic achievement and respects the dignity and worth of all members of the Winnipeg School Division Community. All persons have rights and obligations in ensuring the workplace and learning environment is a safe and healthy environment. No one, whether trustee, administrator, principal, staff, student, parent, volunteer, visitor or contractor should be subject, for any reason or at any time, to discrimination or harassment and/or bullying as defined under the Workplace Safety and Health Act or the Human Rights Code of Manitoba. This policy applies to all activities on Division property and Division sponsored events off our premises.

## **1. DEFINITIONS**

For the purpose of this policy, the following definitions will apply:

- 1.1 The Human Rights Code prohibits discrimination or harassment of any person on the basis of any characteristic referred to in subsection 9(2), whether the harassment is within the context of employment or within the context of services (where students are considered as customers/consumers of educational services).

The characteristics as referred to in subsection 9(2) of The Code include:

- (a) ancestry, including colour and perceived race;
  - (b) nationality or natural origin;
  - (c) ethnic background or origin;
  - (d) religion or creed, or religious belief, 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 (f);
  - (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, a wheelchair, or other remedial appliance or device.
- 1.2 Section 19(2) of The Human Rights Code defines "harassment" as:
- (a) a course of abusive and unwelcome conduct or comment undertaken or made on the basis of any characteristic referred to in subsection 9(2); or
  - (b) a series of objectionable and unwelcome sexual solicitations or advances; or
  - (c) 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 to reasonably know that it is unwelcome; or
  - (d) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.



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1.3 Section 19(1) of The Human Rights Code states: "No person who is responsible for an activity or undertaking to which this Code applies shall:

- (a) harass any person who is participating in the activity or undertaking; or
- (b) knowingly permit, or fail to take reasonable steps to terminate, harassment of one person who is participating in the activity or undertaking by another person who is participating in the activity or undertaking."

1.4 Section 1.1 of Regulation 147/2010 of the Workplace Safety and Health Act further defines harassment to be:

- (a) objectionable conduct that creates a risk to the health of a worker; or
- (b) severe conduct that adversely affects a workers psychological or physical well being.

1.5 Section 1.1.1 (1) of the Regulation 147/2010 states that for the purpose of the definition harassment in section 1.1, conduct is

- (a) objectionable, if it is based on race, creed, religion, colour, sex, sexual orientation, gender determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry, or place of origin; or
- (b) severe, if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.

Reasonable conduct of an employer or supervisor in respect of management and direction of workers in the workplace is not harassment.

In this section and in the definition harassment in section 1.1, conduct includes a written or verbal comment, a physical act or gesture or a display, or any combination of them.

## 2.0 TYPES OF HARASSMENT

2.1 Sexual Harassment may include:

- (a) unwanted, persistent or abusive sexual attention;
- (b) a sexual advance or solicitation made by a person in a position to grant or deny a benefit which may affect the employment status of an employee or the academic status of a student where the individual knows or ought reasonably to know that this attention is unwanted;
- (c) 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:
  - demeaning remarks based on gender
  - suggestive jokes about sex
  - inappropriate comments about clothing, physical characteristics or activities
  - inappropriate displays of sexual pictures or materials



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- derogatory terms, graffiti which degrades a person based on his/her sex or sexual orientation
  - leering, ogling and suggestive or insulting sounds
  - unwanted questions or comments about one's private life
  - unwanted physical contact, such as brushing up against one's body, patting or pinching
  - sexual assault (an offence under the Criminal Code)
- (d) a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

## 2.2 Personal Harassment

Any inappropriate conduct, comment, display, action or gesture by a person that is made on the basis of race, creed, religion, colour, sex, sexual orientation, gender determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry or place or origin.

## 2.3 Bullying

Any repeated humiliation or intimidation that adversely affects an individual's psychological or physical well being. In the case of an isolated incident, harassment is severe conduct which has a lasting harmful effect on the individual.

## 2.4 Racial/Ethnic/Homophobic Incident

A verbal or non-verbal exchange, expression or graphic/visual display including but not limited to derogatory terms language, images and graffiti which degrades a member or members of a racial/ethnic group or community, or an individual's sexual orientation.

## 2.5 Hate Crime

An offence such as an assault, threat, or act of vandalism motivated by hatred of the victim's race, religion, sexual orientation, gender or ethnic background.

## 2.6 Hate Propaganda

Any form of communication that is intended to promote hatred toward groups or individuals. Hate propaganda may be distributed by telephone contact, broadcasting, graffiti, written materials, posters, electronic technology or music.

## 2.7 What is Not Harassment

Reasonable actions by managers or supervisors to help manage, guide or direct workers or the workplace are not harassment. Appropriate employee performance reviews, counselling or discipline by a supervisor or manager is not harassment.

- 3.0 **COMPLAINANT** refers to the person who believes that he/she is being harassed and has initiated a complaint with the principal/ supervisor or the Division.



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3.1 **RESPONDENT** refers to the person against whom the complaint has been made.

#### **4. GENERAL**

- 4.1 Every individual working, learning or volunteering in or visiting a Division facility is entitled to an environment that is free of harassment.
- 4.2 This policy shall apply to trustees, senior administrators, principals, supervisors, staff, students, parents, volunteers, visitors and contractors working in or visiting a Division facility.
- 4.3 The Division shall attempt to ensure, as much as possible, that no person is harassed in Division workplaces and shall work with employee groups and students to recognize and deal with harassment.
- 4.4 Every person working, learning or volunteering in or visiting a Division facility has the responsibility to treat each other with respect. Any person who experiences harassment or is a witness to another person being subjected to harassment must report the conduct to the appropriate individual.
- 4.5 Every person working, learning or volunteering in or visiting a Division facility is responsible to cooperate in the investigation of a harassment complaint.
- 4.6 It shall be a violation of this policy for any person in a Division facility to harass any other person. All formal or informal complaints shall be investigated in accordance with established procedures.
- 4.7 All behaviours shall be judged on the basis of their consistency with human rights and respect for human dignity.
- 4.8 Nothing in this policy precludes the legal right of individuals from exercising any other rights, actions or remedies that may be available to the individual under any other law.

#### **5. CONFIDENTIALITY**

Situations involving harassment shall be treated in strict confidence by the Division and any other person(s) involved in the investigation or harassment incident. All information from investigations and interviews pertaining to a complaint shall be shared only with the persons directly involved unless otherwise required by law.

All information provided by the complainant shall be kept confidential unless otherwise required by law. If the complainant is a student or staff member, the information will not be placed in the complainants file unless the complainant is found to have brought forward a frivolous or malicious complainant or unless required by law.



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## **6. RESPONSIBILITIES**

- 6.1 The Chief Superintendent or designee shall be responsible for the development of procedures to deal with reported cases of harassment.
- 6.2 The Chief Superintendent shall inform all members of the Senior Administration and school principals that harassment is not acceptable under any circumstances and will not be tolerated.
- 6.3 Members of the Senior Administration shall inform members of their department that harassment is not acceptable under any circumstances and will not be tolerated.
- 6.4 All schools/Division facilities shall implement the procedures established by the Division for handling complaints or incidents of harassment and shall inform staff, students and community of the harassment prevention policy.
- 6.5 School principals shall inform staff, parents and students annually (where appropriate) that harassment is not acceptable under any circumstances and will not be tolerated.
- 6.6 Members of the staff shall intervene in those situations where harassment is observed or overheard.
- 6.7 The principal/manager of a School Division facility may obtain consultative advice from the Director of Human Resources in order to resolve an incident of harassment.
- 6.8 If the complaint involves the principal or manager of a School Division facility, the complainant may lodge the complaint with the Director of Human Resources.
- 6.9 A formal complaint of harassment must be made in writing in accordance with the procedures specified hereinafter, detailing the specific allegation(s) and naming the respondent with reference to the complaint.
- 6.10 The Division shall determine whether disciplinary action is warranted against the complainant or the respondent. Any action shall be taken in accordance with the Policy GCP - Discipline & Discharge if the complaint involves an employee or Policy JG - Discipline if the complaint involves a student.

## **7. EMPLOYEES COVERED BY COLLECTIVE AGREEMENTS**

Where provisions with respect to harassment exist within a Collective Agreement, they shall apply. However, the rights conferred by this policy are the minimum rights which all employees are entitled to.



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## **8. CONSEQUENCES**

- 8.1 The handling of complaints or incidents of harassment involving students shall be subject to the procedures established by this policy and with the Administrative Rules of this policy and Policy JG - Discipline. School officials will institute disciplinary measures which will reflect the seriousness of the offenses.
- 8.2 Complaints or incidents of harassment involving a staff member shall be treated as a disciplinary issue and shall be addressed in accordance with the Administrative Rules of this policy and Policy GCP - Discipline and Discharge.
- 8.3 Complaints or incidents of harassment involving or caused by parents or visitors in the school shall be handled in accordance with the Administrative Rules of this policy.
- 8.4 Where it is found that a violation of the policy has occurred, the disciplinary action taken against a staff member or student specified in 6.1, 6.2 or 6.3 may include, but not be restricted to the following:
- (a) verbal warning;
  - (b) written warning included in the staff or student's file;
  - (c) suspension
    - of staff - with or without pay for specified period of time.
    - of students - for a specified period of time or exclusion from a school;
  - (d) transfer to another location;
  - (e) dismissal/expulsion;
  - (f) police involvement;
  - (g) involvement of Child and Family Services
  - (h) exclusion from Division facilities

## **9. APPEAL**

- 9.1 Within seven (7) calendar days of the complainant or respondent becoming aware of action being recommended, the action may be appealed to the Chief Superintendent.
- 9.2 The Chief Superintendent shall review the details of the complaint and render a decision on the action or may substitute an alternative solution to the complaint.
- 9.3 The Chief Superintendent may or may not choose to hear the parties to the complaint before rendering a decision.
- 9.4 This does not preclude the complainant from exercising any other rights, actions or remedies that may be available to the individual under any other law or the Collective Agreement.



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## **10. RETALIATION**

Any individual who retaliates in any way against a person who has complained of harassment, given evidence in a harassment investigation or been found guilty of harassment, will be considered to have committed harassment and will be subject to disciplinary action.

## **11. VICTIMS OF HARASSMENT**

- 11.1 The Division shall ensure that counseling is accessible and available to the victim and, when appropriate to the respondent.