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Subject	WORKPLACE CONFLICT RESOLUTION PROCEDURES FOR OBJECTIONABLE BEHAVIOUR
References	Human Rights Code Employment Equity Act Municipal Freedom of Information and Protection of Privacy Act Board Policy 3120 Employment Equity Board Policy 3035 – Workplace Conflict Resolution Policy APM A7640 – Harassment - Student
Links	FORM A4070 – 1
Contact	Human Resources

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PROCEDURES

1. General

These procedures provide a mechanism for dealing with objectionable behaviour complaints. Nothing in these Procedures denies or limits access to other avenues of redress available under the law or the filing of a grievance or progressive discipline. If another avenue of redress is selected, this process shall be suspended. The parties and their respective representatives will meet with the Superintendent of Human Resource Services and Organizational Development to determine which dispute resolution process will proceed and which one will be held in abeyance pending completion of the chosen process.

1.1 Definitions

Under these procedures, the word **student** includes all persons regardless of age who are enrolled in any program offered by the Board. The word **employee** includes all persons employed by the Board. The words **other users** include all persons, who are neither students nor employees while on Board premises or attending Board or school programs/functions at other premises or in a business/social community relationship with the Board.

This Policy applies to and covers all members of consultative committees, clients of the Board, parents, volunteers, permit holders, contractors, and employees of organizations not related to the Board but who nevertheless work on or are invited onto Board premises.

1.2 Who May Initiate a Complaint

All Board students, employees, trustees and other users such as members of consultative committees, clients of the Board, parents, volunteers, permit holders, contractors, and employees of other organizations not related to the Board but who nevertheless work on or are invited onto Board premises have access to complaint procedures. Individuals who believe that they have been subject to objectionable behaviour may report the behaviour. In addition, those who have witnessed objectionable behaviour directly, or have reasonable grounds to suspect that objectionable behaviour is occurring, may initiate a complaint. Anonymous reports will not be entertained for dispute resolution under these Procedures. Third party disclosures shall only go forward (to formal stage) with the victim's consent.



1.3 Timelines

All complaints must be filed within six (6) months of the most recent alleged objectionable behaviour. A report outside this time frame may be accepted with the agreement of the Superintendent of Human Resource Services and Organizational Development, or designate.

1.4 Confidentiality

It is the duty of the supervisors to maintain confidentiality in the complaint process. All complainants, respondents and other persons involved with the complaint process under these procedures will ensure that all matters remain confidential.

Witnesses should be informed that supervisors, in obtaining a statement, will maintain such statement in confidence, subject to their ability to conduct a full and thorough investigation. Every effort possible will be taken to protect the anonymity of witnesses throughout the process.

The Board may be required to provide information obtained during an investigation to an outside agency that has the right to require information otherwise protected by the *Municipal Freedom of Information and Protection of Privacy Act*.

1.5 Records

All correspondence and other documents generated under these Procedures must, subject to the *Municipal Freedom of Information and Protection of Privacy Act*, be marked "PRIVATE AND CONFIDENTIAL" and be stored in a locked and secure file in the Human Resources Department. All software versions will be erased upon completion and filing of the final report.

1.6 Misuse of the Complaint Procedure

If there is a determination on a balance of probabilities that a complaint has been filed in bad faith, the complaint process may be discontinued and disciplinary action may occur. Persons who file a complaint that is deemed to be "in bad faith" may appeal to the Director of Education or designate for a review of the case.

1.7 Reprisals

It is strictly forbidden to engage in reprisals against individuals because they have reported a complaint. Allegations of reprisals shall be investigated as formal complaints and, if substantiated, are subject to the same consequences as complaints of objectionable behaviour.

2. Informal Resolution

2.1 Supervisors may become aware of objectionable behaviour in the workplace or learning environment in different ways:

- 2.1.1 Directly observe objectionable behaviour
- 2.1.2 Receive a report from the individual affected
- 2.1.3 Receive a report from a third party

2.2 Supervisors have a duty to respond to and take action to resolve any situations involving objectionable behaviour.

Informal Resolution is a mandatory procedure that provides an opportunity for parties to resolve a dispute in a mutually respectful manner. The Board encourages supervisors, as well as union/federation representatives, to first attempt Informal Resolution as a means of resolving issues. This can prevent escalation of the situation and further negative consequences while promoting the restoration of a healthy learning or workplace environment.

2.3 Supervisors as well as union/federation representatives may facilitate an informal resolution by:

- 2.3.1 suggesting that the complainant confront the alleged harasser; state that the behaviour is not acceptable and obtain a commitment that the behaviour will stop; or
- 2.3.2 informing the person alleged to be demonstrating objectionable behaviour of the concern regarding the behaviour and the Board's expectation for appropriate behaviour, by providing a copy of the *Workplace Conflict Resolution Policy and Procedures* and/or other relevant Board policies, and by obtaining a commitment that the behaviour will stop.

2.4 Supervisors shall follow up to ensure that the behaviour has stopped by monitoring the situation. If necessary, they shall convene subsequent meetings with the parties and take further steps to ensure that the objectionable behaviour has stopped.



There will be no formal reports of conflicts resolved informally. Every effort will be made to protect the privacy of individuals.

3. Formal Complaint Procedure

3.1 Initiating a Complaint

When initiating a complaint, student complainants should contact their teacher, principal or vice-principal directly. If the student needs advice or support in reporting the complaint, contact with the school administration may be made on the student's behalf by another individual such as a parent, teacher or other supportive adult in the school, or other student. If the principal is the party alleged to be responsible for the objectionable behaviour or alleged to condone the behaviour, the complaint shall be reported to the appropriate School Superintendent.

Employee complainants should contact their appropriate supervisor, and union, or federation or association representative (as applicable) for advice or support in making this complaint. If the supervisor is the party alleged to be responsible for the objectionable behaviour or alleged to condone the objectionable behaviour, the complaint should be reported to the appropriate manager above the supervisor. Other user complainants should report the complaint to the appropriate supervisors at the Board.

Supervisors who receive a formal complaint shall proceed in accordance with the procedures set out in section 3.3 Procedures for Dealing with a Complaint. **Informal Resolution is a mandatory first step in this procedure.**

3.2 Respondents to a Complaint

Individuals who are named as respondents in a complaint have a right to know in a timely manner that they are the subject of a complaint, who the complainant is, what the allegations are and what approach to a resolution is being considered. In particular, a respondent has a right to know the specifics of an allegation, including times, dates and alleged conduct. Respondents will be given a written copy of the complaint and given time to prepare a full and complete written response.

Employee respondents should contact the appropriate supervisor, and union, federation or association representative or other representative for assistance and representation throughout the complaint process.

Other user respondents may also want to contact other appropriate personnel; for example, an employee of another organization may want to seek assistance and support from within that organization.



3.3 Procedures For Dealing With A Complaint

Supervisors have a duty to respond to formal complaints and take action to resolve any situations involving objectionable behaviour. The following steps provide a framework for the initial response:

3.3.1 Filing a Formal Complaint

3.3.1.1 The complainant fills out the Objectionable Behaviour Formal Complaint Form (FORM A4070) (with the assistance of the supervisor and/or union, federation or association representative if necessary).

3.3.1.2 Submit the form to the Superintendent of Human Resource Services and Organizational Development, or designate.

3.3.1.3 The Superintendent of Human Resource Services and Organizational Development, and/or designate investigates to determine if the alleged behaviour would, if proven, meet the definition of objectionable behaviour as defined in this policy. This is the **Threshold Assessment**. If the complaint is covered by this Policy, the Superintendent of Human Resource Services and Organizational Development, or designate:

3.3.1.3.1 gives the complainant and respondent copies of this set of procedures;

3.3.1.3.2 selects and engages a trained investigator and informs the parties of the Formal Complaint and provides a letter of introduction of the investigator (in most cases the investigator will be the supervisor when the supervisor is not the respondent).

3.3.1.4 If the Superintendent of Human Resource Services and Organizational Development or designate, determines that the report filed:

3.3.1.4.1 would not if true, meet the definition of objectionable behaviour;

3.3.1.4.2 does not provide sufficient details of the alleged objectionable behaviour, provided the complainant is given notice of this deficiency and reasonable time to remedy it; or,

3.3.1.4.3 is vexatious, frivolous or trivial, has not been made in good faith or would, if investigated, constitute an abuse of the Policy;



- 3.3.1.4.4 is the normal exercise of supervisory responsibilities, including training, direction, instruction, counseling and discipline;

the complainant and his/her representative will be invited to a meeting to discuss other appropriate avenues for the resolution of the conflict and no further action shall be taken under this Policy.

Where an allegation relates to discrimination on the basis of a ground prohibited by the Ontario Human Rights Code, it shall be addressed under the Board's Human Rights Policy.

3.3.2 Investigation of a Formal Complaint

In a Formal Investigation, the investigator shall take the following steps sequentially:

- 3.3.2.1 take appropriate steps to ensure the safety of the complainant;
- 3.3.2.2 notify the complainant, the respondent and witness(es) that they are entitled to support and assistance throughout the process;
- 3.3.2.3 ensure that the respondent have a copy of the complaint;
- 3.3.2.4 interview the complainant;
- 3.3.2.5 inform the respondent of the allegations and provide an opportunity for response;
- 3.3.2.6 interview the respondent;
- 3.3.2.7 interview witness(es);
- 3.3.2.8 come to conclusions about whether a specific incident did or did not occur based on a balance of probabilities (the question of whether the behaviour is "objectionable behaviour" will be determined using objective standards);
- 3.3.2.9 provide an opportunity for the complainant affected and the respondent to respond to the findings and to the conclusions;
- 3.3.2.10 take appropriate action to resolve the situation and report to those who are responsible for resolving the dispute.

If the respondent declines to participate in the formal investigative process, the investigation shall proceed. The respondent should be encouraged to participate in the interest of a balanced and fair process.

3.3.3 Standard of Proof

The standard of proof to be applied is the balance of probabilities.



Outcomes of Formal Investigations

In the event a complaint is not substantiated, no further action will be taken. However, if there is a need to restore a positive learning or working environment or if the complainant and/or respondent require counselling, appropriate steps shall be taken to meet such needs.

Such steps may include:

- 3.3.3.1 mediation;
- 3.3.3.2 counselling for the parties;
- 3.3.3.3 application of strategies to restore a positive learning/working environment;
- 3.3.3.4 specific training for the complainant or respondent;
- 3.3.3.5 workshops for the staff and/or students in the school/workplace regarding their rights and responsibilities (see Appendix A);
- 3.3.3.6 permanent separation of respondent and complainant from each other;
- 3.3.3.7 restorative measures.

3.3.4 Mediated Resolution

At any time during the investigation of a formal complaint, the parties may agree to hold the investigation in abeyance and attempt to achieve a mediated resolution.

Mediation involves an unbiased third party acting as a facilitator in direct communication between the parties who voluntarily agree to enter into this process. It is an opportunity to resolve disputes in a respectful mutually agreeable manner.

Mediation is appropriate when all parties agree that a mutually agreeable solution is achievable and desirable. The investigator will request approval of the parties to function as the mediator or obtain a trained mediator from the Board's list of approved mediators.

The investigator will also seek the permission of the Superintendent of Human Resource Services and Organizational Development, or designate, to pursue a mediated resolution.

(In cases where an alternate mediator is sought, the Human Resources Department shall provide a list of trained mediators who are acceptable to both parties.)

Mediation sessions shall be scheduled as soon as possible and at a time and place convenient for the complainant, respondent and mediator.

Any mutually agreeable settlement reached must be confirmed in a Mediation Agreement signed by the parties. Supervisors shall receive a copy of the Mediation Agreement to ensure that the terms that the parties have agreed to are being met.

3.3.5 Disciplinary Actions

Student Respondents

At the conclusion of the investigation, the Principal may deem that the offence warrants discipline. The Principal will follow the appropriate procedures for addressing student misconduct, as outlined in the *Education Act* and other Board policies and procedures, such as the Board's Code of Conduct or the Safe Schools Policy.

Employee Respondents

The principles of progressive discipline will be applied in dealing with disciplinary actions under this policy. These actions will be governed by The Simcoe County District School Board's "A Guide to the Principles of Progressive Discipline".

Other User Respondents

Actions must be determined as appropriate for the individual situation and may include such responses as a letter of disapproval and warning, a revoking of permits or contracts, an issuing of a trespass warning, or other remedies as provided by the common law and/or the appropriate legislation. The involvement of the appropriate Superintendent is recommended in these cases.

4. Review

A complainant or respondent to a formal complaint may submit a request to the Superintendent of Human Resource Services and Organizational Development for a review of the decision if:



- 4.1 the investigators failed to comply with these Procedures;
- 4.2 new evidence becomes known after the final decision but before the expiry of the 20 working days limitation period for requesting a review.

Such requests must be submitted within 20 working days of the receipt of the investigator's report. The Superintendent of Human Resource Services and Organizational Development will appoint a Reviewer.

No review of the final decision will be undertaken with regard to the claim that the conclusions drawn by the investigator(s) based on findings of fact were incorrect.

The Reviewer will report his/her findings and recommendations to the Superintendent of Human Resource Services and Organizational Development, who will affirm or amend the final decision, or require that a new investigation be undertaken.

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Revised

Issued under the authority of the Director of Education



RESPECTFUL LEARNING AND WORKING ENVIRONMENTS
RIGHTS AND RESPONSIBILITIES

Everyone has the right to work and learn in an environment that is free of unwelcome or intimidating behaviour that could create an unsafe and /or unhealthy environment and could interfere with job performance and ability to learn.

1. Responsibilities of All Persons in Board Learning/Working Environments

It is the responsibility of every person to create and contribute to a climate of understanding and mutual respect for the rights and dignity of each individual by:

- 1.1 showing courtesy and self discipline in actions and words;
- 1.2 seeking informal problem solving of issues;
- 1.3 respecting rules, regulations and practices that are in place which provide for safe and secure learning and working environments;
- 1.4 demonstrating honesty, integrity and behaviours that are representative of a positive and supportive atmosphere;
- 1.5 showing proper care and regard for Board property and the property of others.

2. Responsibilities of the Simcoe County District School Board

- 2.1 to recognize the dignity and worth of every person and to provide for fairness and equal opportunities without discrimination.
- 2.2 to honour its commitment to work towards the elimination of workplace objectionable behaviour.
- 2.3 to maintain an environment respectful of human rights that is safe, nurturing and positive for all persons served by it

By knowing your rights and responsibilities, you can stop objectionable behaviour. Anyone who feels that the behaviour of others is objectionable has the right and responsibility to tell others that the behaviour is offensive, unwelcome, and must cease. They also have the right to report the offensive behaviour to someone in a position of authority who can facilitate resolution of the matter.

If you are experiencing objectionable behaviour, contact your Principal, Supervisor or Supervisory Officer.

PRIVATE AND CONFIDENTIAL

WORKPLACE OBJECTIONABLE BEHAVIOUR FORMAL COMPLAINT FORM

Name(s) of Complainant(s): _____

School/Department/Worksite: _____

Complainant(s): __ Student __ Employee, Job Title _____ Other _____

Description of **Alleged Objectionable Behaviour**. (Please use additional pages if necessary).

Name of Respondent(s) (Allegedly Committed Objectionable Behaviour): _____

School/Department/Worksite: _____

Respondent(s): __ Student __ Employee, Job Title _____ Other _____

Date(s) of incident(s) or Time Frame:

Have you attempted to resolve the dispute informally? Yes No

If Yes, describe what actions were taken? (Please use additional pages if necessary).

Complainant(s) Signature(s): _____ Date: _____

The information contained in this form is of a highly confidential nature and will be protected in accordance with the provisions of the **Municipal Freedom of Information and Protection of Privacy Act**. This form and any attachments will be copied to the respondent(s) named above, in accordance with the Formal Complaints Process.

INSTRUCTIONS FOR HANDLING THIS FORM

Please place this form in a sealed envelope marked “**PRIVATE AND CONFIDENTIAL**” and send it to the Superintendent of Human Resource Services and Organizational Development, Simcoe County District School Board, 1170 Hwy. 26, Midhurst, Ontario, L0L 1X0.