



YORK CATHOLIC DISTRICT SCHOOL BOARD

No.: 810A

Section: Board

Approved: July 4, 2000

Board Approved Revision Date:

Implementation: Superintendent of Human Resources

POLICY:

SEXUAL HARASSMENT (WORKPLACE)

The inherent right of all individuals to be treated with dignity and respect is central to Catholic values and Christian beliefs. The York Catholic District School 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 recognizes that every employee has a fundamental right to a workplace free from sexual harassment.

All persons working for the Board or carrying out Board business on a temporary, part time or full time basis are covered by the Policy. The policy also applies to elected officials, members of boards and committees and volunteers.

Administration will treat any complaint of sexual harassment as a serious matter and, where a complaint is substantiated, individuals, regardless of position or seniority, will be subject to appropriate disciplinary measures, up to and including dismissal.

Notwithstanding the existence of this policy, every person continues to have the right to seek assistance from the Ontario Human Rights Commission or the police. Nothing in this policy precludes a person from filing a grievance where the person is entitled to do so. By mutual agreement the time limits under any collective agreement may be extended.

What is Workplace Sexual Harassment:

Workplace sexual harassment may include one or a series of incidents involving unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature. Any person who engages in such behaviour which he or she knows or should know is unwelcome may be guilty of sexual harassment.

Sexual harassment refers to harassment on the basis of sex and gender. Harassment on the basis of sex is sexually motivated and most frequently directed at women. Harassment based on gender is directed at an individual because of commonly held societal notions of masculinity and femininity. The term sexual harassment as defined in this document is inclusive of both forms of harassment.

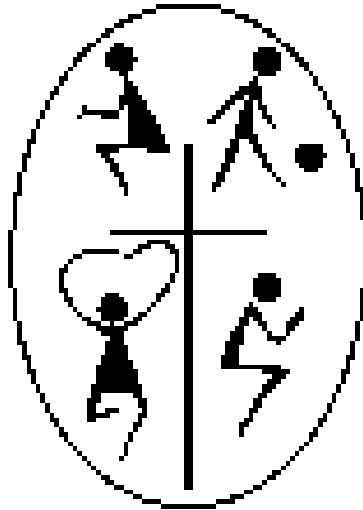
Sexual Harassment may include but is not limited to:

- Inappropriate comments about a person's body or appearance
- Expressing bias on the basis of sex through derogatory or degrading remarks
- Unwelcome inquiries or comments about a person's sexual practices
- Sexually suggestive remarks or innuendoes

YORK CATHOLIC DISTRICT SCHOOL BOARD

**COMPLAINT PROCEDURES
SEXUAL HARASSMENT (WORKPLACE)**

**CROSS REFERENCE
POLICY No. 810A**



Susan LaRosa
Director of Education

Elizabeth Crowe
Chair of the Board

COMPLAINT PROCEDURES

Sexual Harassment (Workplace)

Each employee retains the right to decide how to respond to sexual harassment, including either verbal or written communication with the respondent, in order to resolve the situation. The complainant may contact his or her principal, manager, school superintendent, a human resources representative, bargaining unit representative and/or the Equity Consultant 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.

One may choose to go directly to the formal process or utilize both the informal and formal stages.

Informal Resolution Process:

1. As soon as possible, one is advised to make a record of the details surrounding the incidents including times, dates, places, names of witnesses, if any, and circumstances surrounding the incident.
2. One may wish to speak directly to the person involved in the alleged harassment. One may choose to do this alone or in the presence of another Board employee, Equity Consultant or bargaining unit representative.

If one chooses to speak to the person, it would be helpful to make a note of the conversation that took place. One 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.

3. One may wish to advise the person by letter. If one chooses this option, it is advisable to keep a copy of the letter and proof that it is received, such as a courier or registered mail receipt.
4. If one is not satisfied with the results of the initial contact with the respondent or if the harassment continues, one may wish to contact his or her principal, manager, school superintendent, a human resources representative, bargaining unit representative and/or Equity Consultant 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. One may wish to consider counselling to help deal with the psychological and emotional impact of these events. Suggestions for counsellors and/or a spiritual advisor can be obtained from the Board's Employee Assistance Plan.
6. No formal written records are completed at this stage although both parties should keep personal documentation of the meetings.

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7. If the harassment incident is not resolved at the informal stage, the complainant may choose to initiate the next option - the Formal Complaint.

Formal Resolution Process:

1. The complainant will submit a written complaint, in a timely manner,* on the attached form to the Superintendent of Human Resources/Designate.

*Any complaint must be filed within a reasonable time following the occurrence of the event. The Board adopts the six month time frame prescribed by the Ontario Human Rights Commission and the Board may, in its discretion, 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.

2. The Superintendent of Human Resources/Designate will confirm in writing to the complainant, receipt of the complaint within seven (7) working days.
3. The Superintendent of Human Resources/Designate will forward a copy to the respondent within seven (7) working days of receipt of the complaint.
4. The Superintendent of Human Resources/Designate will discuss the complaint separately with the complainant(s) and respondent(s) and on their recommendation, may consult with others who are in a position to provide relevant information.

The parties have the right to representation during these and any other discussions during this process and shall be informed of such right by the Superintendent of Human Resources/Designate.

Following each interview with the complainant(s) or respondent(s), the Superintendent will prepare written statements based on the interviews. These statements will be disclosed to the complainant(s) and respondent(s). The parties will each have the opportunity to provide any written addition or amendment to the statements. If persons other than the complainant(s) and respondent(s) are interviewed, statements will be prepared and the essence of relevant information contained in those statements will be disclosed to the complainant(s) and respondent(s).

NB. The Superintendent of Human Resources/Designate, in consultation with the Director of Education, may exercise his or her discretion and refer a complaint to a Complaint Review Investigator (see paragraph 7) upon initial receipt of a complaint.

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5. The Superintendent of Human Resources/Designate will meet with the relevant parties to attempt a resolution. If the incident is resolved at this stage, no further action will be taken.
 6. If the complaint is not resolved in a manner which is mutually agreeable to both parties, the Superintendent of Human Resources/Designate will submit a report to the Director of Education with recommendations for resolution. The Director of Education may act upon the recommendations and/or appoint a Complaint Review Investigator.
 7. The Investigators shall be chosen by the Director from an approved roster of providers.

The qualities of those on the approved roster of providers shall include the following:

- Education and/or experience in the investigation of sexual harassment complaints
- Non-judgmental approach and good communication skills
- High ethical standards

The Investigator shall:

- Interview separately, both the complainant and the respondent;
- Meet with persons who may have some knowledge of matters and evidence connected with the alleged incident(s) including witnesses named or persons who may have experienced sexual harassment by the respondent. Following each interview, statements will be prepared by the Complaint Review Investigator based on the information provided during the interviews. Where possible, the statements should be reviewed, signed and dated by the witness. The witness is entitled to retain a confidential copy of the statement. The Investigator may conduct physical examinations of locations and review any documents, records, or other evidence relevant to the investigation. Once the investigation is complete, the Complaint Review Investigator shall prepare a report summarizing the evidence, making findings of fact and providing recommendations based on their findings. Names of witnesses shall be included in the report. A copy of the report, but not witness statements, are to be provided to the complainant(s) and respondent(s). The report will include the essence of statements provided by witnesses, which have been relied upon by the investigators. The complainant(s) and respondent(s) may provide comments to the Investigator on the report, including suggestions for further investigation or changes to the report. The Investigator shall review the comments, if any, provided by the parties and decide to amend the report, conduct further investigations or finalize the report. If the report is amended it shall again be produced to the parties.

Any party refusing to participate may provide a written explanation of the refusal for consideration by the Investigator.

- The investigation should be concluded within ninety (90) working days from the submission of the original written complaint to the Superintendent of Human Resources.

N.B. While it is expected that all investigations occurring under this complaint procedure are completed within ninety working days of the filing of the written complaint, delays may still occur.

Notwithstanding either party's refusal to cooperate in an investigation, the complaint procedure may still be followed to completion.

8. Findings of the investigations and recommendations of the Investigator in the form of a final report will be submitted to the Director of Education/Designate for approval and action. Copies will be forwarded to both parties. The Director of Education/Designate shall review the Investigator's findings and take action within twenty (20) working days of the submission of the Investigator's report.
9. Where disciplinary action is taken as a result of the investigation, the disciplinary letter shall be placed in the personnel file of the employee. As with any disciplinary letters in the personnel file, the employee may apply to the Superintendent of Human Resources to consider removing the document.
10. At the conclusion of the investigation and Director's review, all notes, statements, documents and reports made or collected in connection with the investigation shall be placed in a sealed file. The sealed file shall be retained separate from personnel files under the control and direction of the Superintendent of Human Resources. Such files may only be accessed under the following circumstances:
 - 1) By any subsequent Investigator who considers the information relevant to their investigation;
 - 2) As required by law;
 - 3) In the event there is a subsequent allegation of a related or similar nature.

All persons reviewing the sealed file material shall place in the file a notation indicating the name, date and reason for the review. The file shall be re-sealed after examination. The person accused of harassment may apply to the Superintendent of Human Resources to consider further restricting access to the sealed file material so that the material may be accessed only as required by law.

11. All investigators are subject to strict obligations to not disclose the information obtained through their investigations except as is necessary. Investigators will

remind all participants of the need to maintain privacy and will take extraordinary measures to secure information connected with the investigation throughout the investigation. Investigators must agree to sign and abide by a confidentiality agreement in the following form:

I understand that in the course of this investigation I may become aware of highly confidential information. I agree that I will not disclose, discuss or communicate in any way any of the confidential information, which I receive during the investigation other than as provided in the policy.

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, suspension or possible dismissal from employment. Such disciplinary action will be placed in the employee's personnel file.

- Sexist jokes causing embarrassment or offence, told or carried out after the joker has been advised that they are embarrassing or offensive, or are by their nature clearly embarrassing or offensive
- Displaying of pornographic or other offensive or derogatory pictures, cartoons and graffiti in the schools and other Board premises as well as clothing
- Letters, phone calls or visits of a sexually harassing nature
- Persistent unwanted contact or attention
- Persistent requests for a date, propositions or demands for sexual favours
- Unwanted physical contact
- Leering or inappropriate staring
- Condescension or paternalism which undermines self respect
- Coercive behaviour that asserts control and/or influence over the victim
- Promise of a job related benefit in exchange for a sexual favour
- Verbal abuse or threats
- Sexual assault (criminal offence - police should be contacted)

Workplace Defined:

For the purposes of this policy, the workplace included locations 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 sexual harassment may have a subsequent impact on the work relationship, performance or environment.

Confidentiality:

All reports regarding sexual harassment will be kept in strict confidence, except as is necessary to investigate the complaint and to respond to any legal or administrative proceedings arising out of or relating to the sexual harassment report.

Policy 810A: Sexual Harassment (Workplace)

Conclusion:

All issues arising out of this policy will be dealt with in a timely fashion and in accordance with the Complaint Procedures: Sexual Harassment (Workplace).

CROSS REFERENCE

- Complaint Procedures for Sexual Harassment - Workplace
- Policy 808 Antiracism and Ethnocultural Equity 1995
- Policy 811 Affirmative Action/Gender Equity in Employment and Curriculum 1991
- Policy 420 Respectful Workplace & Complaint Procedures