



YORK CATHOLIC DISTRICT SCHOOL BOARD

BOARD POLICY	
<i>Policy Section</i> Human Resources	<i>Policy Number</i> 425
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POLICY TITLE: WORKPLACE HARASSMENT

SECTION A

1. PURPOSE

The York Catholic District School Board is committed to ensuring a respectful work and learning environment free of any form of harassment, or abuse. The policy is in accordance with the [Ontario Human Rights Code](#) and the [Occupational Health and Safety Act](#) and all applicable legislation.

2. OBJECTIVE

It is the policy of the York Catholic District School Board that all persons employed by the Board have the right to work in an environment free from harassment as defined by the *Occupational Health and Safety Act and the Ontario Human Rights Code*.

3. PARAMETERS

3.1 All issues with respect to this policy shall be investigated and addressed in a timely manner and in accordance with the procedures of this policy.

3.1.1 Reprisals

No person involved as either a party, a witness or an investigator to a complaint filed under this policy shall be subjected to intimidation or reprisals as a result of their involvement. A person who believes that they have been subjected to reprisal is able to file a complaint under the policy. Persons

- engaging in reprisal are subject to disciplinary measures in accordance with *Policy 412 Progressive Discipline of Employees*, up to and including termination of employment.
- 3.1.2 Interfering in any way with the right of an employee to resolve an alleged incident of harassment or discrimination is also a violation of this policy, including but not limited to intimidating any person involved in the investigation, or influencing a person to give false or misleading information. Any employee engaging in such behaviour shall be subject to disciplinary action per Board Policy 412- Progressive Discipline.
- 3.1.3 False/Frivolous or vexatious complaints
The Board does not condone false/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, including filing a counter complaint in response to a complaint against the original Complainant, said employee will be subject to formal disciplinary action, including, but not limited to, a letter of reprimand, suspension or possible dismissal from employment in accordance with the Board's Policy 412 Progressive Discipline of Employees. Such disciplinary action will be placed in the employee's personnel file.
- 3.1.4 The accused person of an allegation will be deemed innocent pending the disposition and outcome of the investigation.
- 3.2 The Director of the Board and the Superintendent of Human Resources and International Education are to be informed of all complaints at the time they are received, except in those cases where the complaint is made against either party (see Respondent Rights 4.8).
- 3.3 All complaints shall conjointly be reviewed by the Superintendent of Human Resources and International Education, and the Human Rights and Equity Advisor.
- 3.4 In the event that the complaint is in regards to the employee's supervisor, the written complaint is to be addressed to the attention of the Board official next in level of managerial authority who shall be considered the immediate supervisor in the steps outlined in the procedures of this policy. In the event that the complaint is against the Director of Education, the complaint is to be submitted to the Chair of the Board for the consideration by the Board of Trustees.
- 3.5 In the event the complaint is against any member of the Senior Team, the investigation shall be conducted by an external service provider.
- 3.6 Where a supervisor, manager, or leader does not take appropriate action to investigate or stop harassment they will also be found to be in violation of this policy.
- 3.7 All reports regarding workplace 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 workplace harassment report.
- 3.8 Records Management
Upon the conclusion of an investigation and a review by the School Superintendent/Superintendent of Human Resources and International Education, and/or Human Rights and Equity Advisor 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 under the control and direction of the

Superintendent of Human Resources and International Education separately from personnel files. Such files may only be accessed under the following circumstances:

3.8.1 As required by law;

3.8.2 By any subsequent investigator who considers the information relevant to their investigation;

3.8.3 In the event there is a subsequent allegation of a related or similar nature.

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

3.9 All documentation in connection with an investigation is to be considered permanent and shall be retained indefinitely within the control and direction of the Superintendent of Human Resources and International Education.

3.10 Reasonable Actions

Actions taken by the YCDSB relating to the management and direction of workers or the workplace is not workplace harassment.

A situation between two employees that involves a disagreement, a misunderstanding or conflict or a single comment or action or rudeness is not generally considered workplace harassment for the purpose of this policy.

3.11 Additional Support

An employee may seek additional support from their Union, the Office of Human Rights, Equity, Diversity and Inclusion or the Employee and Family Assistance program, as appropriate. Such consultation with the Office of Human Rights, Equity and Diversity, will be on the basis that the complaint or concern is in relation to a prohibited ground under the *Ontario Human Rights Code* only. Where there is such engagement with the Office of Human Rights, Equity and Diversity, any such complaint filed thereafter will be investigated through the Office of the Superintendent of Human Resources and International Education.

3.12 Pursuant to the *Ontario Human Rights Code*, the Board has a duty to accommodate employees to the point of undue hardship. Issues of workplace accommodation shall be addressed pursuant to the Board Policy 415 - Accessibility Standards for Employment.

3.13 Annual Review

The Annual Review shall be informed by the collection and analysis of employee comments, feedback from investigators and managers, and information collected through exit interviews, in accordance with the *Occupational Health and Safety Act* in consultation with the Joint Health and Safety Committee or when any gaps or deficiencies in the procedures are identified as a result of an investigation.

The initial draft revisions of this policy will go to the Joint Health and Safety Committee and then to legal counsel for review/input. The draft revisions will then go to the Board Policy Review Committee for final review, revision and approval.

3.14 Training

All workers will be provided with information and instruction on this policy and the procedures, which will include:

- 3.14.1 What conduct is considered workplace harassment, including workplace sexual harassment and how to recognize it;
- 3.14.2 How and to whom to report an incident;
- 3.14.3 How the complaint will be investigated;
- 3.14.4 How the results of an investigation will be reported.

3.15 All workers shall be informed of any substantive changes to the procedure as they occur.

3.16 Supervisors, Managers and the Joint Health & Safety Committee will be provided with information and instruction on how to recognize workplace harassment and how to handle a complaint. They will also be provided with information about their duty to foster a respectful and harassment-free workplace, as well as their duty to inquire through addressing issues that they become aware of regardless of whether an employee makes a complaint, and to keep a record of all discussions with employees who raise concerns under this policy as well as their response to the situation.

3.17 All new Supervisors, Administrators and School Superintendents will be trained by the Superintendent of Human Resources and International Education or designate on how to conduct an investigation into a complaint of workplace harassment, including sexual harassment as part of the orientation to the new role. Additional training on how to conduct investigations will be provided every two years to all other members of management.

A Supervisor, Manager and School Superintendent shall not be responsible for conducting an investigation under this policy unless they have received training accordingly.

3.18 Allegations of harassment cannot be made anonymously and cannot be made through the Whistleblower policy.

4. RESPONSIBILITIES

This policy applies to all York Catholic District School Board employees. All staff are expected to abide by this policy by refraining from any form of harassment and by fully cooperating in any investigation of a harassment complaint. Fostering a harassment-free workplace is a shared responsibility.

4.1 Board of Trustees

- 4.1.1 To receive a monthly report from the Director of Education in the Committee of the Whole which includes the number of complaints and any trends and systemic issues that need to be addressed proactively.
- 4.1.2 To deal with complaints of harassment against the Director of Education in a timely manner, using an external service provider, as set out in the Procedures to this Policy.

4.2 Director of Education

- 4.2.1 To create and foster a respectful work and learning environment free of any form of harassment, or abuse.

- 4.1.2 To oversee compliance of the Workplace Harassment policy and related procedures.
- 4.1.3 To ensure Superintendents are aware that they are accountable for responding to and resolving complaints of harassment as per established timelines.
- 4.1.5 To provide a monthly report to the Committee of the Whole stating the number of workplace harassment complaints on a monthly basis, the number and type of complaints, the outcome of each investigation, and any trends and systemic issues that need to be addressed proactively.
- 4.1.6 To review all complaints with the Superintendent of Human Resources and International Education at the time they are received, except in those cases where the complaint is made against either party (see Respondent Rights under Article 4.8).
- 4.1.7 To receive any complaints of harassment regarding a member of the senior team and to forward them to an external service provider for investigation. Trustees shall be notified that a complaint has been received although trustees shall not be told the names of the parties involved. Trustees shall also be notified when the investigation is complete and whether or not the complaint had merit and if any actions are being taken by the Director.

4.3 Superintendent of Human Resources and International Education

- 4.3.1 To provide leadership in the implementation of this policy.
- 4.3.2 To create and foster a respectful work and learning environment free of any form of harassment, discrimination or abuse.
- 4.3.3 To ensure that all employees are aware of the policy and related procedures.
- 4.3.4 To ensure and monitor the provision of training to all employee groups.
- 4.3.5 To receive and review all harassment complaints with the Human Rights and Equity Advisor in order to determine whether the complaint has a human rights component. In such cases, the Superintendent of Human Resources and International Education, in consultation with the Human Rights and Equity Advisor (HREA) will determine how to then process the complaint. Similarly, the office of the Human Rights and Equity Advisor will inform the Superintendent of Human Resources and International Education of any complaints that the office of the HREA receives.
- 4.3.6 To facilitate the investigation of complaints by working with the superintendent or senior manager.
- 4.3.7 To ensure that those assigned to investigate a complaint have sufficient training and understanding of the *Ontario Human Rights Code* and the *Occupational Health and Safety Act* to conduct an appropriate investigation.
To provide for the monitoring and evaluation of the application of the policy, such as the collection and analysis of employee comments, feedback from investigators and managers, and information collected through exit interviews to inform the monitoring and review of the policy.
- 4.3.9 To report to the Director of Education all complaints at the time that they are received and to notify the Director when complaints are resolved and the nature of each resolution.
- 4.3.10 To ensure an annual review of the policy as per 3.13 of this policy.

4.4 Superintendents of Education/Senior Managers

- 4.4.1 To create and foster a respectful work and learning environment free of any form of harassment, or abuse.

- 4.4.2 To implement the Workplace Harassment policy and related procedures as required or guided by the Superintendent of Human Resources and International Education.
- 4.4.3 To ensure that school administrators are aware that they are accountable for responding to and resolving complaints of harassment, unless the complaint is dealt with by the Human Rights and Equity Advisor or a Superintendent.

4.5 School Administrators/Department Managers/Supervisors

- 4.5.1 To create and foster a respectful work and learning environment free of any form of harassment, or abuse.
- 4.5.2 To promote positive and respectful relationships among employees.
- 4.5.3 To recognize and address actions of workplace harassment that offend, embarrass or humiliate others, whether deliberate or unintentional.
- 4.5.4 To treat each situation as a serious matter and conduct an investigation where needed under the supervision of the Superintendent, Manager, or Human Rights and Equity Advisor.
- 4.5.5 To address and correct inappropriate behaviours that constitute harassment in the workplace in a timely manner consistent with Board Policy 412 - Progressive Discipline of Employees.
- 4.5.6 To facilitate the situation towards a resolution between the parties if possible, with a view to correcting behaviour and preserving long term working relationships.
- 4.5.7 To receive a complaint and to notify the Superintendent/Senior Manager.
- 4.5.8 To consult with the Superintendent /Senior Manager who will use the Superintendent of Human Resources and the Human Rights and Equity Advisor as resources if the situation cannot be resolved between the parties.
- 4.5.9 To ensure employees are aware of this policy and related procedures.

4.6 Employees

- 4.6.1 To treat others with respect.
- 4.6.2 To become familiar with the Board's Workplace Harassment policy and related procedures.
- 4.6.3 To address workplace harassment by bringing it to the attention of the employee displaying it or to a person in authority, as soon as possible.
- 4.6.4 To not make allegations of harassment that are false, frivolous, malicious, or purposely in response to a complaint filed against them.
- 4.6.5 To make every effort to resolve in a respectful and civil manner, workplace harassment issues.
- 4.6.6 To participate in investigations of workplace harassment.

4.7 Complainant

- 4.7.1 The Complainant (target of the alleged harassment) has the right to:
 - 4.7.1.1 Have a complaint investigated and receive a fair, unbiased investigation of the facts.
 - 4.7.1.2 Have a support person of their choice during meetings regarding the complaint.
 - 4.7.1.3 Confidentiality.
 - 4.7.1.4 Be free from retaliation for filing a complaint.
 - 4.7.1.5 Receive a summary of the investigation report from the official who conducted the investigation.

4.8 Respondent (alleged harasser) has the right to:

- 4.8.1 Be informed that a complaint has been filed against them as soon as possible and before the commencement of the investigation.
- 4.8.2 Know the full nature of the allegations in order to make a full response to the allegations, including additional allegations that arise in the course of the investigation.
- 4.8.3 Have their response heard and receive a fair, unbiased investigation of the facts.
- 4.8.4 Identify witnesses or documentary evidence to be considered in the investigation.
- 4.8.5 Have a support person of their choice during meetings regarding the complaint.
- 4.8.6 Confidentiality.
- 4.8.7 Fair discipline, should discipline occur, in accordance with Policy 412 Progressive Discipline of Employees.
- 4.8.8 Receive a summary of the investigation report.
- 4.8.9 The respondent has the responsibility to:
 - 4.8.9.1 Participate in the investigation and resolution of the complaint.

5. DEFINITIONS

5.1 Harassment

5.1.1 Harassment pursuant to the *Ontario Human Rights Code* is defined as a course of comment or actions that are known, or ought reasonably to be known, to be unwelcome. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning or unwelcome, based on a prohibited ground of discrimination, on the basis of association or relationship with a person identified by a prohibited ground of discrimination or as a result of a perception that a prohibited ground of discrimination applies to an individual.

5.1.2 Workplace Harassment

Workplace harassment, as defined by the Ontario Health & Safety Act, is broad enough to include harassment prohibited under the Ontario Human Rights Code, as well as what is often called “psychological harassment” or “personal harassment.”

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

- i) Unwanted comments, inferences or suggestions;
- ii) Various forms of intimidation and aggressive behaviour;
- iii) Verbal and emotional abuse;
- iv) Withholding information necessary to perform one’s duties; and
- v) ‘Bullying’ which is an attempt to undermine an individual through cruel and humiliating behaviour, including ‘cyber-bullying;’
- vi) Regular use of profanity and abusive or violent language;
- vii) Violent behaviours, e.g., slamming doors, throwing objects;
- viii) Frequent angry shouting/yelling or blow-ups;
- ix) Targeting individual(s) in humiliating practical jokes
- x) Discriminatory actions.

5.1.3 Workplace Sexual Harassment

Workplace sexual harassment refers to:

- (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.

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

- i) Expressing bias on the basis of sex through derogatory or degrading remarks;
- ii) Unwelcome inquiries or comments about a person's clothing, body or social activities;
- iii) Remarks, jokes, or innuendoes of a sexual nature;
- iv) Persistent objectionable looks at a person's body;
- v) Unnecessary and unwanted physical contact;
- vi) Displaying pornographic or other offensive or derogatory pictures or cartoons in the workplace;
- vii) Condescension or paternalism which undermines self-respect;
- viii) Coercive behaviour that asserts control and/or influence over the victim;
- ix) Sexual assault (criminal offence – police to be contacted).

Harassment does not include:

- i) Legitimate performance/probation management;
- ii) Appropriate exercise and delegation of managerial authority;
- iii) Operational directives;
- iv) A disagreement or misunderstanding;
- v) Conflict between co-workers;
- vi) Work-related change of location, co-workers, job assignment;
- vii) Appropriate discipline;
- viii) Less than optimal management;
- ix) A single comment or action unless it is serious and has a lasting harmful effect;
- x) Rudeness unless it is extreme and repetitive.

5.2 Poisoned Work Environment

Poisoned environment refers to a work environment that is oppressive, negative, hostile, unwelcoming, or non-inclusive as a result of vexatious behavior that is based on a prohibited ground and that is known, or ought reasonably to be known, to be unwelcome. The comments or conduct need not be directed at a specific individual, and may be from any individual, regardless of position or status. A poisoned working or learning environment may result from a series of incidents or a single serious incident; condonation of such behavior; and/or the failure to adequately remedy and restore the environment following the incident(s).

5.3 Timely Manner

Any complaint made under this policy must be filed in a timely manner following the occurrence of the incident(s). The Board adopts a six (6) month time frame and may, in its discretion, decide not to address the complaint when the facts upon which the complaint is based, occurred more than six (6) months prior to the date the complaint was filed.

5.4 Workplace

In respect to this policy, the workplace is any place where employees, contract employees, volunteers, trustees and others, who are officially permitted by the board to 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 definition.

- 5.4.1 Activities within offices, staff rooms, classrooms, cafeterias/lunchrooms, and other Board property;
- 5.4.2 Board/School sponsored events associated with and including co-instructional and extra-curricular activities;
- 5.4.3 Electronic venues such as virtual meetings, internet, email, and telephones;
- 5.4.4 Activities outside of Board premises including field trips, external work assignments, work-related conferences, training sessions, travel or social gatherings; as well as,
- 5.4.5 Situations in other locations where workplace harassment may have a subsequent impact on the working relationship, performance or environment.

The provisions of this policy and procedure in no way affect the right of any person to exercise their rights under the *Ontario Human Rights Code*, within the time limits specified by the legislation.

6. CROSS REFERENCES

[Limitations Act](#)

[Municipal Freedom of Information and Protection of Privacy Act](#)

[Occupational Health and Safety Act](#)

[Ontario Human Rights Code](#)

YCDSB Policy 109 [Records and Information Management](#)

YCDSB Policy 112 [Privacy and Freedom of Information](#)

YCDSB Policy 408 [Digital Discipleship: Acceptable use of Technology](#)

YCDSB Policy 412 [Progressive Discipline of Employees](#)

YCDSB Policy 427 [Workplace Violence](#)

YCDSB Policy 608 [Volunteers in Schools](#)

YCDSB Policy 613 [Equity and Inclusive Education](#)

YCDSB Policy 614 [Whistleblower](#)

YCDSB [Procedure Addendum to Workplace Harassment Policy](#)

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