

ADMINISTRATIVE PROCEDURE NO. 418

DISCRIMINATION, HARASSMENT AND VIOLENCE IN THE WORKPLACE

Background

All individuals within the Division have the right to a safe and caring work environment free from the risk of discrimination, harassment, and violence. We are committed to providing a safe, healthy and supportive work environment in which all employees are treated with dignity and respect. This procedure is consistent with the Human Rights Commission and the Occupational Health and Safety Act. The Division affirms its faith values and commitment to human rights, including its support for the principle that every member of the community has a right to equitable treatment without fear of discrimination, harassment, and violence.

Maintaining a safe and caring work environment is of critical importance to all employees. Any act of workplace discrimination, harassment, violence or abuse of staff, students, trustees, volunteers, parents/legal guardians or a member of the public, on Division premises, or at Division sponsored activities, is unacceptable conduct and will not be tolerated.

The Division will ensure that appropriate measures are taken to discourage and deal quickly and effectively with workplace discrimination, harassment and violence. Failure to adhere to the Administrative Procedure may result in disciplinary action, up to and including dismissal.

The Division provides services to students with disabilities and emotional challenges. We recognize that staff may be faced with situations where they are supporting students that may act out in a manner that puts the safety of others at risk. With appropriate training and management these incidents can possibly be minimized, but cannot be eliminated altogether. Management is responsible to ensure employees are trained in safety plans, escalation protocols, student management strategies and Alberta Government approved techniques implemented by the Division for dealing with such situations.

The purpose of this procedure is to ensure that:

- a respectful and supportive work environment is fostered within Red Deer Catholic Regional Schools that contributes to the safety and security of individuals.
- risks for workplace violence and harassment are considered and documented in the Hazard Assessment and Control process;
- risks related to workplace violence is communicated to all employees;
- individuals are aware of and understand that acts of discrimination, harassment and violence are considered serious offences for which necessary action will be imposed;
- those subjected to acts of workplace discrimination, harassment and violence, are encouraged to access any assistance they may require in order to pursue a complaint; and
- individuals are advised of available recourse if they are subjected to, or become aware of, situations involving workplace discrimination, violence and harassment.

Definitions

Workplace Violence is actual or threatened conduct of a person that causes or would cause physical or psychological injury or harm. Workplace violence is different than discrimination and harassment. It is aggressive behaviour involving physical contact or statements involving threats of physical harm.

Examples include, but are not limited to:

- threatening behaviour such as shaking fists, destroying property or throwing objects;
- verbal or written threats that express intent to inflict harm;
- physical attacks or aggression, kicking, pushing, biting and/or spitting;
- domestic violence when it spills over into the workplace putting the targeted employee and coworkers at risk; and
- sexual violence.

Discrimination and Harassment is engaging in a course of vexatious comment or conduct, bullying or action intended to intimidate, offend, degrade or humiliate a particular person or group. It is one or a series of incidents involving improper and unwelcome conduct and behaviour that is known or ought reasonably to be known to be unwelcome.

Examples include, but are not limited to:

- Offensive, intimidating or vexatious comments, jokes, conduct or gestures;
- emotional, verbal threats and/or physical or psychological abuse/bullying which creates fear or mistrust or ridicules or devalues an individual;
- displaying or circulating offensive pictures or materials;
- inappropriate staring;
- social exclusion or isolation, spreading lies or false rumours;
- deliberately setting the individual up to fail (e.g., making unreasonable demands, setting impossible deadlines, interfering with work);
- taking away work or responsibility without cause; and
- cyberbullying i.e., posting or sending offensive or intimidating messages through social media, email and other online platforms and;
- any other act that would arouse fear and/or anxiety in a reasonable person in the circumstances.

NOTE: The normal exercise of managerial responsibilities including training, direction, instruction, counselling, supervision, evaluation and progressive discipline does not constitute harassment. Nor is difference of opinion or minor disagreements between coworkers. However, workplace harassment will not be condoned under the guise of strong management, when personnel are not treated with dignity and respect.

Bullying is repeated and hostile or demeaning behaviour by an individual where the behaviour is intended to cause harm, fear, or distress including psychological harm or harm to an individual's reputation. It often involves an imbalance in power and/or authority.

Examples of bullying behaviour includes, but is not limited to:

- social isolation (silent treatment) exclusion, gossiping, spreading lies or false rumours;
- verbal aggression, trivial fault finding, excessive or unjustified criticism, put-downs or threats, personal attack of a person's private life and/or attributes; and
- cyberbullying involves using electronics (i.e., cell phone, text messages, email) to harass, threaten or humiliate an individual through the use of technology.

Workplace Sexual Harassment is unwanted, often coercive, sexual behaviour. It is emotionally abusive and creates an unhealthy, unproductive atmosphere in the workplace by creating an intimidating hostile or offensive work environment. It adversely affects, or threatens to affect, directly or indirectly, a person's job security, working conditions or prospects for promotion or earnings.

Sexual harassment is founded when:

- Submission to such conduct is made explicitly or implicitly a term or condition of employment or of education services;
- Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment, promotion or movement within the Division; and
- Such conduct has the purpose or effect of humiliating a person or substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment can be expressed in many ways, from very subtle to very obvious.

Examples include, but are not limited to:

- suggestive remarks, sexual jokes or compromising invitations;
- implied or expressed threat of reprisal for refusal to comply with a sexually oriented request;
- visual display of suggestive sexual images;
- unwanted or inappropriate physical contact (i.e., touching, patting, pinching, rubbing with an underlying sexual connotation);
- outright demands for sexual favours; and
- attempted sexual assault

No employee or other individual shall commit an act of violence, discriminate against, harass and/or sexually harass a student, parent/legal guardian, another employee or prospective employee or member of the public on Division premises or during Division sponsored activities.

Person in Authority is a person whose role with the Division establishes a supervisory relationship over others and is usually in a position of trust such as teacher or employee to whom students may be accountable. The term also includes a person who has responsibility for completing performance assessments and/or initiating disciplinary action such as administrators, department managers, supervisors and teachers.

Management is a person who has charge of a workplace or authority over a worker.

Complainant is a person who believes they have been subjected to workplace discrimination, harassment, and violence who seeks recourse pursuant to this Administrative Procedure.

Respondent is a person whom allegation of workplace discrimination, harassment or violence has been made pursuant to this Administrative Procedure.

Prohibited Behaviour is any behaviour, act, or conduct defined under this Administrative Procedure.

Procedures

Anyone who infringes a right protected by the Human Rights Act or otherwise engages in acts of discrimination, violence or harassment shall be subject to complaint procedures.

1. Roles and Responsibilities

- 1.1. Preventing workplace discrimination, harassment and violence is the responsibility of everyone in the workplace.
- 1.2. Red Deer Catholic Regional Schools is responsible for developing and providing resources to inform and train staff on the prevention of and response to workplace violence and harassment based on the level of assessed risk.
- 1.3. The Associate Superintendent of Personnel shall ensure new employees receive a copy of this Administrative Procedure and that it is briefed at orientation for new administration, managers/supervisors and at meetings of parent/legal guardians and students.
- 1.4. Management shall annually inform and educate employees about this Administrative Procedure.
- 1.5. Administrators and department management must inform employees of the risks and mitigation strategies when there is reasonable cause to believe that a student may injure an individual. The risk of workplace violence must be documented in the site hazard assessment and student safety plan.
- 1.6. Management shall review and/or revise the workplace harassment and violence prevention plan in consultation with the site Health and Safety Committee. The plan must include measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur. Plans shall be

reviewed annually, or more often if there is an incident of harassment or violence, or if an HSC member or representative recommends a review.

2. Employee Responsibility / Direct Response

- 2.1. Employees and other individuals should take all reasonable steps to protect themselves from violence or to prevent themselves from being vulnerable. A physical response to violence is only acceptable for immediate defense and shall not extend beyond protection and disengagement.
- 2.2. Say "STOP." No one should ignore an act of discrimination, harassment, violence or bullying. If it is safe to do so, inform the offender directly or with the assistance of a person in authority that their behaviour is inappropriate, unacceptable, or unwelcome and it must stop immediately. Stay calm; be polite and direct.
- 2.3. Get "HELP". Employees should seek support and discuss incidents of discrimination, harassment, or violence with a person of trust, a physician, a supervisor, Associate Superintendent of Personnel, the Division Mental Health Consultant, Occupational Health and Safety Department, Employee Assistance Program, or union.
- 2.4. Document the incident. Include the date, time, who, what, when, where, and describe how you felt.
- 2.5. A person in authority will identify and implement actions to mitigate the risk upon receiving a complaint.

3. Reporting an Incident

- 3.1. Individuals subjected to, or have knowledge of any prohibited behaviour shall immediately report the incident to their direct supervisor. This includes domestic violence situations that would likely expose employees or others to physical injury or harm. This process is separate from any legal complaint made to the police or other authority.
- 3.2. Any person in a position of authority who receives a complaint must ensure the incident is reported online through RISC with the assistance of the complainant.
- 3.3. A complaint against management shall be made to the Associate Superintendent of Personnel or designate.
- 3.4. A complaint against the Associate Superintendent of Personnel shall be made to the Superintendent of Schools.
- 3.5. A complaint against the Superintendent of Schools shall be made in writing to the Associate Superintendent of Personnel or designate, who in conjunction with the Board and legal advice, determine the appropriate procedure to be followed in the circumstances.

3.6. Any person shall not knowingly and willfully submit complaints based on false allegations.

4. Reporting Actions

4.1. When an incident of workplace discrimination, harassment or violence is reported management shall follow any established incident investigation procedures.

4.2. Red Deer Catholic Regional Schools will cooperate with investigations conducted by external agencies to the extent required by law.

4.3. Red Deer Catholic Regional Schools will support all parties involved in an investigation, as required to assist with the resolution of the incident.

4.4. An employee who reports an injury or adverse symptom resulting from exposure to a workplace prohibited behaviour is advised to consult a health professional of the employee's choice for treatment or referral.

4.5. The respondent is entitled to know the name(s) of the individual(s) making an informal or formal complaint. In the case of a formal complaint, the respondent shall receive a copy of the letter of complaint outlining the allegations.

4.6. All reasonable efforts shall be made to respect the confidential nature of a complaint. However, absolute confidentiality cannot be guaranteed owing to the need for an investigation and the need to inform the respondent.

4.7. Resolution procedures do not take away the right to file a complaint outside the organization with Alberta Occupational Health and Safety, the Alberta Human Rights Commission, police, the Alberta Teachers' Association or through civil or criminal court.

5. Personnel Assisting in a Discrimination, Harassment, Violence Complaint

5.1. Where there is a complaint, persons in authority must:

5.1.1. Ensure that there is fair treatment for all parties involved.

5.1.2. Provide support throughout the complaint process.

5.1.3. Protect the complainant against possible reprisals.

5.1.4. Assist, if required, in the fact-finding process.

5.2. If the incident or complaint involves a Senior Administrator an external investigator qualified in workplace discrimination, harassment or violence will be retained.

6. Informal Complaints

6.1. Receiving an Informal Complaint

- 6.1.1. The person in a position of authority who receives an informal verbal complaint shall take action to ensure the complaint is addressed within ten (10) working days from the date the complaint is received.
- 6.1.2. The person in a position of authority shall take the following actions:
 - 6.1.2.1. Provide the complainant and respondent with Division procedures.
 - 6.1.2.2. Discuss issues of confidentiality and limits to confidentiality when a complaint is received.
 - 6.1.2.3. Assist the complainant in speaking to the respondent directly, or speak to the respondent on the complainant's behalf to outline the allegations and attempt to resolve the complaint informally.
 - 6.1.2.4. Monitor the status of the complaint to see that it is satisfactorily resolved.

7. Voluntary Mediation

- 7.1. If the individual in a position of authority is unable to resolve the complaint, the complainant and respondent will be asked whether they are willing to enter into voluntary mediation.
- 7.2. Voluntary mediation shall occur within fifteen (15) working days from the date the informal complaint is received.
- 7.3. The focus of the mediation process is educational and preventative, rather than punitive.
- 7.4. If the complainant and respondent agree, the individual in a position of authority shall act as or appoint a neutral third party acceptable to both.
- 7.5. If the informal complaint is not resolved through voluntary mediation, a formal complaint may be filed.

8. Outcome of an Informal Complaint

- 8.1. If a complainant confronts the respondent directly and resolves the problem at that level, further investigation may be required and/or sanctions may still be applied by the Division.
- 8.2. If an individual in a position of authority is asked to speak to the respondent and the behaviour appears to be in violation of Division expectations for employees, further action may be initiated by the person in authority.
- 8.3. If the informal complaint is not satisfactorily resolved, a formal complaint may be filed.

NOTE: As part of the informal complaint process, a secured file will be created which includes:

- The name of the complainant(s) and respondent(s).
- The nature of the alleged prohibited behaviour.

- A record of all meetings to date which specifies meeting dates and names of attendees, and includes the nature or details of the discussions.
- The present disposition of the complaint.

9. Formal Complaint Process

9.1. Making a Formal Complaint

- 9.1.1. A formal complaint made by the complainant to a person in authority must consist of a signed written statement outlining the charges against the respondent, describing the specific incident(s), the dates and any witness(es) who may have been present.
- 9.1.2. A formal complaint may be filed up to three (3) months from the date of the most recent incident cited in the letter of complaint.
- 9.1.3. The complainant is requested to notify the person in authority immediately if a complaint is filed with an Occupational Health and Safety officer, the Alberta Human Rights Commission, police, the Alberta Teachers' Association, or if a civil or criminal court action is initiated while the charges are still under review by the Division. The Associate Superintendent of Personnel or designate may elect to process the complaint or stay the procedures pending the outcome of the other investigation.

10. Receiving a Formal Complaint

10.1. An individual in a position of authority shall:

- 10.1.1. Accept the formal complaint provided no more than three (3) months have elapsed since the most recent incident outlined in the complaint. The Associate Superintendent of Personnel or designate may elect to consider a complaint received after this time.
- 10.1.2. Consider the allegations and take appropriate interim measures to ensure the cessation and prevention of any alleged prohibited behaviour while the alleged conduct is investigated.
- 10.1.3. Verify that the charges may represent a violation of Division expectations for employees.
- 10.1.4. Notify and provide a copy of the complaint to the respondent.

11. Resolving a Formal Complaint

11.1. An individual shall be appointed by the Associate Superintendent of Personnel or designate to conduct an investigation regarding the complaint. Every attempt will be made, to respect the confidential nature of the information.

11.2. The complainant and respondent shall have the opportunity to:

- 11.2.1. Provide written submissions to the investigator.
- 11.2.2. Respond to the other party's written submission.
- 11.2.3. Appear before the investigator to provide oral submissions.
- 11.2.4. Respond to one another's statements.

- 11.2.5. Have someone present to provide advice and assistance (i.e., legal counsel, association/union representative, Division office representative).
 - 11.3. The investigator shall have the right to ask questions of the complainant, respondent and others who may have knowledge of the circumstances that led to the complaint.
 - 11.4. The investigator's findings shall address all pertinent circumstances, including corrective action to be taken to prevent a recurrence and shall be detailed in a report to the Associate Superintendent of Personnel or designate.
 - 11.5. Resolution of a formal complaint shall occur within three (3) months of the date on which the complaint was filed.
 - 11.6. Complaint files will be secured for a period of two (2) years following the resolution and/or last Division procedure pursued by the complainant or respondent. Documents may be retained in a secure location for a period of longer than two (2) years when it is reasonable to do so in the circumstances.
12. Outcome of a Formal Complaint
 - 12.1. If the results of the investigation support allegations in the letter of complaint, a range of sanctions may be imposed on the respondent by the Associate Superintendent of Personnel or designate. The sanctions depend upon the nature and seriousness of the offence. The range of sanctions include a verbal warning, a written reprimand with a copy retained in the respondent's file, transfer, demotion, suspension or termination of employment.
 - 12.2. If the results of the investigation do not support the allegations, the complaint will be dismissed and a letter will be issued indicating that the respondent has been cleared of all allegations. An individual cleared of allegations has the option of requesting that a copy of the letter be placed in the personnel file.
 - 12.3. If the evidence indicates that the complainant knowingly and willfully made false allegations in an attempt to cause harm to the respondent, a range of sanctions may be imposed on the complainant by the Associate Superintendent of Personnel or designate. The sanctions depend upon the nature and seriousness of the offence. The range of sanctions include: a verbal warning, a written reprimand with a copy retained in the complainant's file, transfer, demotion, suspension or termination of employment.
13. Appeals
 - 13.1. Employees who are not satisfied with the action taken with respect to a complaint may appeal the decision to the Associate Superintendent of Personnel.

13.2. Either party has the right to seek civil or criminal redress through the courts or to file a complaint with an Occupational Health and Safety Officer, the Alberta Teachers' Association or the Alberta Human Rights Commission.

14. Retaliation

14.1. No employee shall take retaliatory action with the intent of dissuading or punishing an individual for participating in the complaint resolution process. Sanctions may be imposed for retaliation.

14.2. Retaliation against individuals participating in the complaint resolution process is not to be confused with sanctions imposed for violence or making false allegations.

15. Role of the Associate Superintendent of Personnel

15.1. Provide support, information and in-servicing to employees with respect to discrimination, violence, or harassment and Division procedures.

15.2. Assume responsibility for the securing of complaint files following resolution of a complaint.

15.3. Upon request, help the complainants and/or respondents with advice and discussion on ways to:

15.3.1. Determine whether or not incidents described constitute a prohibitive behaviour.

15.3.2. Resolve a prohibitive behaviour complaint.

15.3.3. Clarify concerns.

15.3.4. Assist in bringing both parties to a meeting where mediation of the complaint or exploration of optional routes toward conflict resolution can be considered.

15.3.5. Facilitate maintenance and ongoing monitoring of the Discrimination, Harassment, and Violence Administrative Procedure.

16. Role of a Person in Authority

16.1. Ensure that the workplace under his/her jurisdiction is free from workplace discrimination, violence or harassment and that complaints of prohibited behaviours are investigated promptly, seriously and a confidentially.

16.2. Speak to the respondent on behalf of the complainant.

Reference

Sections: 11,33,52,53,54,197,204,222 of the Education Act

Alberta Human Rights Act

Employment Standards Code

Child, Youth and Family Enhancement Act

Canadian Human Rights Act

Alberta Human Rights

Criminal Code

The Alberta Teachers' Association Code of Professional Conduct

Constitution Act (Canadian Charter of Rights and Freedoms)

Occupational Health and Safety Act, Regulation, Code
Occupational Health and Safety AP 418
Public Interest Disclosure/Duty to Report Administrative Procedure No. 458

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