



Policy: Workplace Harassment

		Policy Number:	300.01
Adopted:	April 23, 2002	Former Policy Number:	N/A
Revised:	November 24, 2015, June 27, 2017	Policy Category:	Human Resources
Subsequent Review Dates:	TBD	Pages:	3

Belief Statement:

The Brant Haldimand Norfolk Catholic District School Board (the Board) recognizes that the inherent right of all individuals to be treated with dignity and respect is central to Catholic values and beliefs. The Board believes that all of its employees should work and learn in a respectful, non-threatening environment that is free from harassment in all of its forms and from all sources, including employees, supervisors and members of the public. Through this policy, the Board supports a safe and nurturing environment for all staff and students.

Policy Statement:

The Board recognizes its duties regarding Workplace Harassment and Workplace Sexual Harassment. In order to protect its employees, the Board will ensure that:

- In consultation with the Joint Health & Safety Committee, the Board will maintain a written Workplace Harassment program to implement this policy as required under clause 32.0.1(1)(b), of the Ontario Occupational Health & Safety Act.
- The program includes measures and procedures for:
 - an educational and working environment that is free from harassment.
 - all employees to be educated on harassment in the workplace, to ensure an understanding of the importance of the policy and to be made aware that harassment is unacceptable, and will not be tolerated.
 - all those working for the Board, and those using the services of the Board be informed that harassment in the workplace or in the provision of services; (i.e., educational and other) may be an offence under the law.
 - employees to be made aware of the types of behaviour that may be considered offensive.
 - the Board’s responsibilities relative to harassment, identified in terms of awareness, prevention and response.
 - alternative persons to receive and investigate a report of workplace harassment, if the employer or supervisor is the alleged harasser.

Glossary of Key Policy Terms:

Harassment

The Ontario Human Rights Code defines Harassment as *engaging in a course of vexatious comment or conduct against a worker, in a workplace, that is known, or ought reasonably to be known to be unwelcome*. This includes among other things, disparaging comments (i.e., inappropriate gender-related comments), distribution of discriminatory materials, behaviour intended to incite hatred or other verbal or physical conduct of a nature, which is known or ought reasonably to be known to be unwelcome, or where such conduct involves any of the prohibited grounds of discrimination as defined by the Ontario Human Rights Code.

Prohibited Grounds

- a. Race
- b. Ancestry
- c. Place of origin
- d. Colour
- e. Ethnic origin
- f. Citizenship



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- g. Creed (religion)
 - h. Age (in employment - over 18)
 - i. Record of offences (in employment - a conviction for an offence under provincial law or a conviction under the Criminal Code for which a pardon has been granted and not revoked)
 - j. Sex (includes pregnancy)
 - k. Sexual orientation
 - l. Family status (parent and child relationship)
 - m. Marital status
 - n. Disability or *perceived* disability (under the Ontario Human Rights Code) *because of handicap*. This means that the person has or has had, or is believed to have or have had:
 - any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness, including diabetes mellitus, epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, or physical reliance on a guide dog or on a wheelchair or other remedial appliance or device.
 - a condition of mental retardation or impairment.
 - a learning disability or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language.
 - a mental disorder; or
 - an injury or disability for which benefits were claimed or received under the Workplace Safety & Insurance Act.
 - o. Gender Identity.
 - p. Gender Expression.

Workplace Harassment

The Ontario Occupational Health & Safety Act defines workplace harassment as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. The definition of workplace harassment includes workplace sexual harassment.

Behaviours that may be considered workplace harassment include:

- bullying
- teasing
- intimidating or offensive jokes or innuendos
- displaying or circulating offensive pictures or materials
- offensive or intimidating telephone calls, email or text messages.

Workplace harassment is broad enough to include what is often called psychological harassment or personal harassment.

Workplace Sexual Harassment

- Engaging in a course of vexatious comment or conduct against a worker in the workplace because of sex, sexual orientation, gender identify or gender expression, where the course of comment or conduct is known, or ought reasonably to be known, to be unwelcome.
- In the case of employment, sexual harassment also includes the following conduct; one or a series of incidents involving sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature which are known, or ought reasonably to be known, to be offensive or for reprisal or threat of reprisal for rejection of a sexual solicitation or advance.

Sexual Solicitation or Advances

Section 7(3)(a) of the Ontario Human Rights Code sets out a person's right to be free from unwelcome sexual advances or solicitation from a person who is in a position to grant or deny a benefit. This provision of the *Code* is violated when the person making the solicitation or advance knows, or should reasonably know, that such behaviour is unwelcome.



References

Education Act

Ontario Human Rights Code

Criminal Code of Canada

Canadian Charter of Rights and Freedom

Ontario Occupational Health and Safety Act

Brant Haldimand Norfolk Catholic District School Board Volunteers Policy 300.12

Brant Haldimand Norfolk Catholic District School Board Workplace Violence Policy 300.20



**Workplace Harassment
AP 300.01**

Procedure for: All Staff

Adopted: April 23, 2002

Submitted by: Superintendent of Business

Revised: November 23, 2010; November 24, 2015,

Category: Human Resources

June 27, 2017

Purpose:

This Administrative Procedure has been developed to support and implement the Workplace Harassment Policy (300.01) in order to clarify roles and responsibilities regarding workplace harassment, to assist employees with their complaint and to provide direction to supervisors in receiving and responding to a complaint.

Responsibilities:

The Administration of the Board is responsible for:

- discouraging and preventing employment-related harassment and harassment in the provision of services;
- investigating every complaint of harassment in a fair and timely manner;
- imposing appropriate remedial and preventive measures, which may include discipline up to and including dismissal of an employee(s) when a complaint of harassment is found to have been substantiated;
- providing appropriate procedural assistance to an individual(s) complaining of harassment, as well as to an individual(s) who has been named as harasser(s);
- formally acknowledging to a person found to have been harassed that harassment has taken place and to provide him/her with support and assistance as appropriate;
- formally acknowledging to a person who has been named as a harasser if harassment is not found to have taken place;
- regularly reviewing the procedures of the Workplace Harassment Policy to ensure that they adequately meet the Policy objectives;
- maintaining records as required;
- making all those working for and using the services of the Board aware of its commitment to providing a harassment-free environment and the existence of the procedures available under the Policy, and
- providing training and resources for all those working for and providing services to the Board to fulfill their responsibilities under the Workplace Harassment Policy.

Employees are responsible for:

- promoting a working and learning environment that is free from harassment and to assist anyone who believes he/she is being or may have been harassed;
- notifying the supervisor or principal if they believe that a colleague or another person employed by the Board has been the victim of harassment; and
- completing the mandatory *Violence and Harassment in the Workplace* online training module within one month of date of hire.



Information

The Ontario Human Rights Code requires that employers have procedures to prevent and respond to allegations of harassment or discrimination. The Ontario Occupational Health and Safety Act has been amended to include workplace harassment (including sexual harassment) as a hazard for which employers must develop prevention and response strategies. These procedures support the legislated requirements and the Board's commitment to providing a safe working environment.

Workplace Harassment

The Occupational Health and Safety Act defines workplace harassment as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome or workplace sexual harassment. Harassment may also be a form of discrimination if based on one of the Prohibited Grounds as outlined in the Ontario Human Rights Code.

- a) Types of behaviour which may constitute harassment include, but are not limited to:**
- jokes causing embarrassment or offence, told or carried out after the person telling the jokes has been advised that they are offensive, or that are by their nature clearly embarrassing or offensive;
 - racial epithets;
 - mimicking of person's accent or pronunciation of words;
 - comments ridiculing individuals because of race-related characteristics or religious dress;
 - the display of offensive material and graffiti (including electronic format, fax or voice mail);
 - the display of symbols or emblems, including dress, that indicates or incites hatred or notions of supremacy;
 - degrading words used to describe a person;
 - derogatory remarks directed towards members of a group protected under the Ontario Human Rights Code;
 - verbal and non-verbal abuse, intimidation or threats.
- b) Types of behaviour associated with sexual harassment include, but are not limited to:**
- leering (prolonged and intense staring);
 - sexually suggestive or obscene comments or gestures;
 - unwelcome sexual flirtations, advances, propositions;
 - sexual solicitation or advance from a person in a position to confer, grant or deny a benefit;
 - unwanted gifts;
 - unwanted and persistent requests for dates;
 - requests for sexual favours;
 - unwanted touching;
 - verbal abuse or threats of a sexual nature;
 - bragging about sexual prowess;
 - questions or discussions about sexual activities;
 - stalking;
 - gender-based remarks about a person's physical appearance or behaviour;
 - persistent unwanted contact or attention after the end of a consensual relationship;
 - sexual assault;
 - any comments, gestures or above-identified behaviour in relation to sexual orientation or gender identity
 - reprisal or threat of reprisal for rejection of a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit.



c) Other Types of Harassment:

Poisoned Environment

The notion/concept of a poisoned environment is one where, for example, inappropriate gender related or racially based comments or conduct may be significant or substantial enough to constitute a breach of the Ontario Human Rights Code, by creating a poisoned environment for some individuals because of their membership in a group protected under the Code. However, one does not have to be the person targeted by the comments or conduct to experience a poisoned environment. The inappropriate comments or conduct need not occur continuously or repeatedly, but the impact or effect of the negative comments or actions creates a poisoned environment for certain individuals by subjecting them to differential terms and conditions of employment and services. Negative comments or conduct which humiliates, demeans and is devaluing of members of groups targeted by the unwelcome behaviour can be considered to poison a workplace or academic environment.

d) What is not Harassment?

Reasonable action taken by the employer or supervisor relating to the management and direction of employees or the workplace is not considered to be workplace harassment.

Procedure: Reporting Workplace Harassment

1.0 Complaint from Staff

1.1 A person (Complainant) who considers that he/she has been subjected to harassment or harassment related reprisal is encouraged to bring the matter to the attention of the person responsible for the conduct (Respondent) making direct and clear objection indicating that the comment or conduct is not acceptable. This may resolve the issue. **It is important that the Complainant document (note the details of) any communication he or she has with the Respondent (i.e., date, time, place, witnesses, etc.).**

1.2 Obtain Assistance and Information

Where a person (Complainant) does not feel able to bring the matter directly to the attention of the person responsible (Respondent), or where such an approach is attempted and does not produce a satisfactory result, the Complainant should report the harassment to their direct supervisor. In the case where the alleged harasser is the complainant's direct supervisor, the complainant should report the harassment to another individual (Resource Person), who is in a position to provide guidance and assistance with the complaint, i.e. Supervisor, Principal, Manager, Superintendent, Director.

The Resource Person will advise the Complainant of the following:

- 1.2.1 the option of requesting the assistance of his/her Principal/Supervisor, in resolving the complaint (provided the Principal/Supervisor is not the person named by the Complainant). If the alleged harasser is the immediate Principal/Supervisor, the Complainant should contact the next higher level of management (i.e., Supervisory Officer or Director of Education);
- 1.2.2 the availability of counseling and other support services provided by the Board;
- 1.2.3 the right to lay a formal written complaint under Policy 300.01 when the alleged harasser is an employee of the Board;
- 1.2.4 the expectation that a formal written complaint would be laid within six months of the incident unless a delay was justified on the basis of extenuating circumstances and will not result in substantial prejudice against any person affected by the delay;



- 1.2.5 a right to be represented or assisted by a person of his or her choice (i.e., a friend, colleague, a union representative) throughout the process;
- 1.2.6 the right to withdraw from any further action in connection with the complaint at any stage (even though the Board may continue to investigate the complaint);
- 1.2.7 other avenues of recourse such as the right to utilize the provisions of the Collective Agreement, to file a complaint with the Ontario Human Rights Commission, or the Ministry of Labour, to take civil action, or where appropriate, the right to lay a charge under the Criminal Code.
- 1.2.8 All incidents or complaints of workplace harassment shall be kept confidential by all parties involved in an investigation, except to the extent where it is necessary to reveal details in order to protect employees, to investigate the complaint, to take corrective action or otherwise as required by law.

1.3 Seek Resolution

The complainant may decide not to take any action or to do the following:

- 1.3.1 Request assistance from his/her Principal/Supervisor, or next higher level of management if the Principal/Supervisor is the alleged harasser; meet to discuss the matter; explore the notion of conflict resolution, mediation or any other options to affect a satisfactory solution.
- 1.3.2 Seek counseling through the Board's Employee Assistance (EAP) program.
- 1.3.3 Lay a formal complaint (refer to 1.4, Formal Complaint Process).
- 1.3.4 Take other avenues of recourse:
 - utilize any applicable provisions of the Collective Agreement;
 - file a complaint with the Ontario Human Rights Commission;
 - file a complaint with the Ministry of Labour;
 - resolve the issue through federation/union mechanism if both Complainant and respondent are members of the same bargaining unit;
 - take civil action;
 - report the incident to the police and take action under the Criminal Code.

1.4 Formal Complaint Process

- 1.4.1 The Complainant will inform the Resource Person that she/he wishes to lay a formal written complaint.
- 1.4.2 The Resource Person will outline the formal complaint process.

2.0 Stage 1: Documentation and Notification Process

- 2.1 The Resource Person may assist the Complainant in drafting a formal, written complaint, detailing the particulars of the allegation. The particulars should include the name(s) of the person involved (Respondent), a description of the incident(s) and the name(s) of any witnesses. The formal written complaint must be signed by the Complainant.



- 2.2 The Resource Person will give copies of the complaint, **WITHOUT DELAY**, to the Complainant, the Respondent and to the appropriate Supervisory Officer(s).
- 2.3 Both parties will be advised that even if the matter is resolved to the satisfaction of the Complainant, the Board may, nonetheless, be obliged under the Workplace Harassment Policy to continue the inquiry into the complaint and to take whatever remedial action is appropriate.

3.0 Stage 2: Investigation

- 3.1 The Supervisory Officer will collect evidence by meeting with the Complainant and Respondent (separately), interview witnesses and otherwise investigate all aspects of the matter, which are relevant in determining whether or not the allegations of harassment are substantiated.

An Inspector from the Ministry of Labour may, in writing, order an employer to commence an investigation described in clause 32.0.7(1)(a) of the Ontario Occupational Health and Safety Act; at the expense of the employer, by an impartial person possessing such knowledge, experience or qualifications as are specified by the inspector and to obtain, at the expense of the employer, a written report by that person.

- 3.2 All individuals who are interviewed will be advised that they may be accompanied by a representative of their choice.
- 3.3 All parties involved in the investigation including the Complainant, Respondent and any witnesses will be advised that confidentiality must be maintained by all parties throughout and following the investigation process.
- 3.4 Comprehensive, confidential notes must be kept by the Supervisory Officer.

4.0 Stage 3: Report and Conclusion

- 4.1 At the conclusion of the investigation, the Supervisory Officer will prepare a report within ten working days for the Supervisory Officer responsible for Human Resources who will review it and authorize its release to all parties to the complaint.
- 4.2 The Complainant and Respondent will be given ten working days to respond to the analysis of evidence in the report and to provide new evidence or information that should be considered prior to a final decision being made.
- 4.3 Where the results do not support the complaint of harassment, both parties will be informed in writing and the file will be closed.
- 4.4 The Supervisory Officer responsible for Human Resources will review the responses to the report and will then consider whether or not further investigation is necessary and, if not, whether the complaint or parts of the complaint are substantiated.
- 4.5 The Supervisory Officer responsible for Human Resources will recommend to the Director of Education what remedial action should be taken in the circumstances.



4.6 Such rehabilitative or disciplinary action may include, but not be limited to:

- counseling;
- education on harassment;
- formal written apology;
- change of work assignment of the Complainant and/or Respondent;
- disciplinary action up to and including dismissal.

4.7 The Supervisory Officer responsible for Human Resources will advise both the Complainant and Respondent, in writing, of the results of the inquiry and any disciplinary and/or remedial action to be taken.

5.0 Stage 4: Appeal of the Decision

5.1 The Complainant and/or Respondent may appeal the decision to the Director of Education who will review the report and any other supporting documentation.

5.2 The Director of Education will confirm or reverse the decision of the report in writing to the Complainant and Respondent.

6.0 Retention of Records

6.1 Records of the Investigation will include:

- a) a copy of the complaint or details about the incident;
- b) a record of the investigation including notes;
- c) a copy of the investigation report (if any);
- d) a summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace harassment and the alleged harasser, if an employee of the Board;
- e) a copy of any appeal related records;
- f) a copy of any corrective action taken to address the complaint or incident of workplace harassment.

6.2 All documentation collected during the formal process must be kept confidential and maintained in a filing system in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*. All documents must be kept in a sealed envelope and stored in the Office of the Director of Education.

6.3 The results of an investigation, and any report created in the course of, or for the purposes of the investigation, are not a report respecting occupational health and safety for the purposes of subsection 25(2) in the Ontario Occupational Health and Safety Act, and therefore are not required to be shared with the Joint Health and Safety Committee.

7.0 Reprisal

7.1 The Ontario Human Rights Code protects people from reprisal or threats of reprisal [Section 8]. A reprisal is an action, or threat, that is intended as retaliation for claiming or enforcing a right under the *Code*.

7.2 Employees who file a complaint under the Workplace Harassment policy or who are involved in an investigation related to Workplace Harassment will be protected against reprisal and retaliation.



- 7.3 For the purposes of the Workplace Harassment Policy 300.01, reprisal against an individual will be treated as harassment when such actions occur for;
- a) having invoked the Policy (whether on behalf of oneself or another individual);
 - b) having participated or cooperated in any inquiry under the Policy; or
 - c) having associated with a person who has invoked the Policy or participated in these Administrative Procedures.
- 7.4 In the event that an individual is shown to have not acted in good faith and has initiated a complaint under the Workplace Harassment policy in a frivolous or malicious manner, the Board may take formal disciplinary action against the Complainant. Such discipline is not a reprisal or breach of this policy. Documentation regarding the disciplinary action will be placed in the employee's personnel file.

8.0 Consequences of Engaging in Harassment

8.1 Under Statute

- 8.1.1 Persons who engage in harassment prohibited by the Ontario Human Rights Code are liable under the Code for damages payable to the Complainant. In addition, a person who violates the Code or who obstructs a Human Rights investigation may also be liable to prosecution under the Code and, on conviction, subject to a monetary fine as determined by the Ontario Human Rights Commission.
- 8.1.2 Persons who engage in workplace harassment prohibited by the Ontario Occupational Health and Safety Act, are liable for disciplinary action up to and including dismissal.
- 8.1.3 Persons who have knowledge of, or who acquiesce in, harassment may be found in violation of the Ontario Human Rights Code, or the Ontario Occupational Health and Safety Act, as having indirectly engaged in prohibited activity and are subject to the same consequences as those who directly engage in discrimination or harassment.

8.2 At Common Law

- 8.2.1 Persons who engage in harassment or discrimination, directly or indirectly, may be sued.

8.3 In Employment

- 8.3.1 Employees who engage, directly or indirectly, in discrimination or harassment may be disciplined up to and including dismissal.

9.0 Confidentiality

- 9.1 The Board understands that it is difficult to come forward with a complaint of harassment and recognizes a Complainant's interest in keeping the matter confidential.
- 9.2 To protect the interests of the Complainant, the person complained against and any others who may report incidents of harassment, confidentiality will be maintained throughout the investigation process to the extent practicable and appropriate under the circumstances.



Definition of Terms

Workplace Harassment:

Any alleged behaviour that appears to meet the definition of harassment, workplace harassment or sexual harassment found in the *Glossary of Key Policy Terms* of the Workplace Harassment Policy.

Complainant:

A person who considers that he/she has been subjected to harassment or harassment related reprisal even though that individual may not lay a formal written complaint. Similarly, a person named as harasser in a complaint will be referred to as the *Respondent*.

Respondent:

A person who is alleged to have engaged in Workplace harassment as defined in the *Glossary of Key Policy Terms* of the Workplace Harassment Policy.

Resource Person(s):

Principals, Managers, Supervisors, Supervisory Officers, Supervisory Officer responsible for Human Resources or the Director of Education.

References

Education Act

Ontario Human Rights Code

Criminal Code of Canada

Canadian Charter of Rights and Freedom

Occupational Health and Safety Act

Brant Haldimand Norfolk Catholic District School Board Workplace Harassment Policy 300.1

Brant Haldimand Norfolk Catholic District School Volunteers Policy 300.12



**RESOLUTION PROCEDURES
AND OPTIONS**

SPEAK UP	<ul style="list-style-type: none">• Bring the matter to the attention of the harasser making clear that the behavior makes you uncomfortable and ask them to stop.• Document any communication. <p>OBTAIN ASSISTANCE AND INFORMATION.</p> <ul style="list-style-type: none">• Seek advice of a Resource Person.
SEEK RESOLUTION	<ul style="list-style-type: none">• Take no action, but document the incident.• Request assistance from principal/supervisor.• Seek counseling.• Take other avenues of recourse.• Lay a formal complaint.
FOLLOW FORMAL COMPLAINT PROCESS	<ul style="list-style-type: none">• Resource Person will outline the formal complaint process.



FORMAL COMPLAINT PROCESS

CONSULT WITH RESOURCE PERSON	<ul style="list-style-type: none"> • Resource Person will outline the formal complaint process.
STAGE 1: DOCUMENTATION AND NOTIFICATION	<ul style="list-style-type: none"> • A formal written complaint will be drafted with assistance from Resource Person detailing the particulars of the allegation. • Resource Person will provide copies to Complainant, Respondent and their Supervisory Officer(s).
STAGE 2: INVESTIGATION	<ul style="list-style-type: none"> • Supervisory Officer will collect evidence by meeting with the Complainant and Respondent (separately), interviewing witnesses and investigating all aspects of the matter. • Comprehensive and confidential notes are to be kept throughout the investigation.
STAGE 3: REPORT AND CONCLUSION	<ul style="list-style-type: none"> • When the inquiry is complete, the Supervisory Officer will prepare a report for the Supervisory Officer responsible for the Workplace Harassment Policy. • The Supervisory Officer responsible for the Workplace Harassment Policy will review the report and authorize its release to all parties of the complaint. • The Complainant and Respondent have ten working days to respond to the evidence in the report and/or provide new evidence. • The Supervisory Officer will review the responses and determine whether or not to accept the conclusion. • If no harassment is found, both parties are informed in writing and the file will be closed. NO WRITTEN RECORD WILL BE KEPT. • If the report and responses support the complainant, the Supervisory Officer will determine what rehabilitative and/or disciplinary action is appropriate. FILE TO BE KEPT IN DIRECTOR'S OFFICE.
STAGE 4: APPEAL OF THE DECISION	<ul style="list-style-type: none"> • The Complainant or Respondent may appeal the decision to the Director of Education. • The Director of Education will review the report and any other supporting documentation and confirm or reverse the decision.