

**ST. CLAIR CATHOLIC DISTRICT SCHOOL BOARD
POLICIES AND PROCEDURES
SECTION D: STAFF AND VOLUNTEERS**

FREEDOM FROM HARASSMENT & DISCRIMINATION	PROCEDURE
EFFECTIVE: 2000 12 01 / 2007 03 27 / 2015 04 28 / 2016 09 27	

ADMINISTRATIVE PROCEDURES:

1.0 Responsibility

- 1.1 The Board is responsible to ensure the provision of a work and learning environment free of harassment and discrimination in accordance with the Ontario Human Rights Code.
- 1.2 The senior administrator responsible for Human Resource Services will be responsible for the implementation of this Policy and will promptly investigate allegations of workplace harassment and/or discrimination submitted under this Policy.
- 1.3 The Board will inform employees of this Policy and reporting mechanism provided in this Procedure and will ensure employees are aware of their right to report workplace harassment and/or discrimination.
- 1.4 All employees and volunteers share the responsibility of establishing and maintaining a climate of respect within this community and to address any situations in which respect is lacking. This means not engaging in, allowing, condoning or ignoring behaviour contrary to this Policy.

2.0 Expectations

- 2.1 Each employee and volunteer may exercise the right to request information or to lodge a complaint based on this Policy without fear or threat of reprisal for so doing.
- 2.2 Where the parties are unable to resolve a complaint themselves, it is preferable the complaint be resolved within the work group with the assistance of the employees' immediate supervisor. Where resolutions are not achieved at that level, the complaint will be referred to the senior administrator responsible for Human Resource Services for investigation and resolution.
- 2.3 The Board will provide fair and due process for all parties involved in the reported incident(s) before, during and after the investigation.
- 2.4 Employees have the right to be accompanied by an Association or Union Representative. A person other than an Association or Union Representative may accompany individuals at the discretion of the Employer.
- 2.5 All parties involved in any incident of workplace harassment and/or discrimination under investigation by the Board will be advised to respect the confidentiality of

ST. CLAIR CATHOLIC DISTRICT SCHOOL BOARD

POLICIES AND PROCEDURES

SECTION D: STAFF AND VOLUNTEERS

the case and the confidentiality of any discussion and any documentation related to the investigation.

- 2.6 Confidentiality will be respected as much as possible; however, may not be absolute due to the nature of the resolution process; for example:
- a) teachers have a professional obligation to inform a colleague that a complaint has been made as set out in Section 18 1,a.b. of the Teaching Profession Act;
 - b) disclosure may be required for the purpose of investigating or taking corrective action with respect to the complaint; or
 - c) disclosure may be required by law.
- 2.7 A spirit of fairness must guide the proceedings. This includes the Respondent's right to know both the allegations and the Complainant, and the right of both parties to a fair and impartial resolution process. Every attempt will be made to resolve complaints in an expedient manner to ensure fair treatment for both the Complainant and the Respondent and to guard against unsubstantiated claims which might result in gossip, loss of credibility, dignity or respect.
- 2.8 Disciplinary actions will be subject to the related provisions of Board collective agreements, and terms and conditions of employment.
- 2.9 All parties, including those responsible for the resolution of complaints, have the right to seek advice from the Ontario Human Rights Commission. However, in the event the Complainant chooses to file the complaint with the Commission or in the event either the Complainant or the Respondent retains legal counsel to resolve the complaint the internal process will cease and the matter will be turned over to the Ontario Human Rights Commission.
- 2.10 Nothing in this procedure precludes the Board from invoking an investigation in accordance with these procedures in a situation where the Board reasonably believes that workplace harassment and/or discrimination may have occurred, even though no person has complained about a violation of this Policy.

3.0 Stages of Complaint

- 3.1 The following process describes three stages: personal resolution, informal resolution and formal resolution. Action taken by a complainant, or that will be discussed with a complainant, will depend on the circumstances of the case. In all but the most serious cases, the Board would hope that the matter could be resolved through the personal resolution or informal resolution stages. The aim is to arrive at a constructive and mutually acceptable outcome wherever possible.

3.2 Personal Resolution

Where an individual feels offended by the comments, behaviour or actions of others, they are advised to tell the offender to cease and desist. Similarly where personalities or interpersonal conflict contribute to a negative environment, honest communication is encouraged to attempt to resolve the situation and restore a healthy and effective atmosphere in which to work.

ST. CLAIR CATHOLIC DISTRICT SCHOOL BOARD

POLICIES AND PROCEDURES

SECTION D: STAFF AND VOLUNTEERS

The following process is recommended in such situations:

- a) Ask to speak privately to the person whose behaviour bothers you
- b) Explain what about the behaviour bothered you, why and/or how (or, where the behaviour is harassing ask the person to stop)
- c) Give the other person the opportunity to respond
- d) If resolved, it is over and should not be discussed with any other staff
- e) If not resolved or if resolved but happens again submit a complaint to your supervisor

3.3 Informal Resolution

Where the parties to a complaint are unable to resolve the matter among themselves, the Complainant should inform their immediate supervisor as to the nature of the complaint and request an intervention.

Depending on the nature of the complaint, the supervisor will either attempt to facilitate a resolution or refer the complaint to the senior administrator responsible for Human Resource Services for investigation and resolution.

A 'local' or "informal" resolution facilitated by an immediate supervisor may take many forms including but not limited to a verbal apology, written apology, mutual verbal agreement or mutually agreed letter of resolution. In any event, the immediate supervisor will document and file the facts giving rise to the complaint, any evidence presented or otherwise obtained and the resolution to the complaint.

3.4 Formal Resolution

Failing resolution of the matter through personal or informal resolution, the Complainant shall submit a formal complaint verbally or in writing, requesting formal resolution, to the senior administrator responsible for Human Resource Services.

If the complaint contains allegations against the senior administrator responsible for Human Resource Services or the Director of Education, the Board will refer the investigation to an external investigator to conduct an impartial investigation.

The report of the complaint should include the following information:

1. Name(s) of the employee who has allegedly experienced workplace harassment and contact information
2. Name of the alleged harasser(s), position and contact information (if known)
3. Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known)
4. Details of what happened including date(s), frequency and location(s) of the alleged incident(s)
 - i. Any supporting documents the employee may have in his/her possession that are relevant to the complaint.

ST. CLAIR CATHOLIC DISTRICT SCHOOL BOARD

POLICIES AND PROCEDURES

SECTION D: STAFF AND VOLUNTEERS

- ii. List any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.

A complaint of workplace harassment and/or discrimination should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a timely manner.

The senior administrator responsible for Human Resource Services or external investigator will attempt to facilitate a resolution mutually agreeable to the complainant, respondent, the Board and in some cases the Association or Union. Where such a mutual agreement is not achieved, a resolution to the complaint will be administered. In either case, resolution may be within the range of a finding there is no objective evidence to support the complaint to termination of employment.

The formal resolution process typically will involve:

- Receipt of the complaint
- Collection and examination of files and records
- Interviewing of the Complainant
- Interviewing of witnesses
- Interviewing of the Respondent, disclosure of the complaint and opportunity to respond
- Resolution, which may include a report summarizing the complaint, investigation, findings and whether workplace harassment and/or discrimination was found or not.

The Complainant and the Respondent, if he/she is an employee of the Board, will be informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation. All records of the investigation will be kept confidential. The investigation documents, including this report should not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law.

4.0 Additional Information

- 4.1 The St. Clair Catholic District School Board is committed to the principles of equity and inclusive education, consistent with our Catholic teachings, which value and promote human rights and social justice in all Board policies, programs, guidelines, operations and practices.
- 4.2 Ontario Human Rights Code can be viewed at the following link:
<http://www.ohrc.on.ca/en/ontario-human-rights-code>.

ST. CLAIR CATHOLIC DISTRICT SCHOOL BOARD

POLICIES AND PROCEDURES

SECTION D: STAFF AND VOLUNTEERS

5.0 Definitions

Discrimination

“Discrimination” includes, but is not limited to, differential and/or unfair treatment based on a prohibited ground set out in the *Ontario Human Rights Code* (“the *Code*”). It includes:

- Not individually assessing the unique merits, capacities and circumstances of a person;
- Making stereotypical assumptions based on a person’s presumed traits;
- Having the impact of excluding persons, denying benefits or imposing burdens.
- Discrimination does not include differential treatment which is permitted under the *Code* for special programs, special interest organizations, and special programs.
- Discrimination can be intentional or unintentional, and direct or indirect.

Prohibited Grounds

The prohibited grounds set out in the *Code* are as follows:

- Age
- Ancestry, colour, race
- Citizenship
- Ethnic origin
- Place of origin
- Creed
- Disability
- Family status
- Marital status (including single status)
- Gender identity, gender expression
- Receipt of public assistance (in housing only)
- Record of offences (in employment only)
- Sex (including pregnancy and breastfeeding)
- Sexual orientation.

Harassment

Workplace harassment is defined in accordance with the Ontario Occupational Health and Safety Act (OHSA) 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 typically involves a pattern of comment or conduct that occurs over time. However, a single incident of a serious nature may be sufficient to constitute harassment.

Harassment includes comment or conduct targeted towards a particular individual, as well as comment or conduct directed toward a group of individuals that creates a poisoned working environment for members of that group.

The reasonable exercise of management functions is not considered harassment for the purpose of this Policy. The reasonable exercise of management functions includes, but it is not limited to, giving reasonable instruction or supervisory direction to an employee, providing constructive criticism or counselling, enforcing workplace standards, taking corrective or disciplinary action, or conducting performance appraisals.

**ST. CLAIR CATHOLIC DISTRICT SCHOOL BOARD
POLICIES AND PROCEDURES
SECTION D: STAFF AND VOLUNTEERS**

Workplace Sexual Harassment

The OHSA further defines Workplace Sexual Harassment:

- (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.