

PERSONAL, DISCRIMINATORY, AND SEXUAL HARASSMENT

Background

The Division recognizes the right of all students and staff members to learn and work in an environment free from personal, discriminatory or sexual harassment.

The Division, all staff members, students and people within school communities have a responsibility to promote, monitor and maintain learning environments and workplaces that are free from harassment.

Pursuant to *The Occupational Health and Safety Act, 1993* (OHS Act):

Harassment means any inappropriate conduct, comment, display, action or gesture by a person that constitutes a threat to the health or safety of the staff member that is either:

- based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; or
- adversely affects the staff member's psychological or physical well-being and that the person knows or ought reasonably to show would cause a worker to be humiliated or intimidated.

Definitions

1. Personal harassment is defined as repeated, objectionable conduct or comment, directed towards a specific person, or persons and has the effect of creating an intimidating, humiliating, hostile or offensive working or learning environment. It can also be a single, serious occurrence of conduct, or a single serious comment, display, action or gesture that has a lasting or harmful effect on the worker. Personal harassment does not include conduct or comments made in good faith in the exercise of supervisory rights and responsibilities.
2. Discriminatory harassment is defined as discrimination contrary to the Human Rights Act and includes:
 - 2.1 Discriminatory acts against a student with respect to the learning environment or any educational program or service provided to the student because of race, color, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, or sexual orientation; and
 - 2.2 Discriminatory acts against a staff member with respect to the work environment or any term or condition of employment because of race, color, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, or age of that staff member or because that staff member has been convicted of a criminal or summary

conviction offence that is unrelated to the employment or to the intended employment of that person

3. Sexual harassment is defined as unwelcome sexual advances, comments, looks, suggestions, audio and visual material of a sexual nature, requests for sexual favors and other verbal or physical conduct emphasizing sexuality, sexual identity or sexual orientation when such conduct:
 - 3.1 Either explicitly or implicitly is a term or condition of an individual's education, employment, or any opportunity for training or promotion;
 - 3.2 Is used as a basis for scholastic, extra curricular or employment decisions affecting another individual; or
 - 3.3 Interferes with an individual's school or work performance or creates an intimidating, hostile, offensive or uncomfortable learning and working environment.

Procedures

1. Informal Complaint Process

- 1.1 Complainants are encouraged but not required to immediately tell the harasser when conduct is considered inappropriate and unwanted and ask that the inappropriate or unwanted conduct stop.
- 1.2 Before proceeding with a formal complaint, a staff member who believes he or she has a complaint of harassment may approach his/her supervisor, federation/union representative or human resource personnel to discuss the potential means of resolving a complaint and to request assistance in resolving the matter on a formal or an informal basis.
- 1.3 Before proceeding with a formal complaint, a student who believes he or she has a complaint of harassment or who does not know how or is unable to confront the harasser, shall approach a teacher, counselor, administrator, parent or trusted adult to obtain advice, support and skills or strategies to halt the harassment.
- 1.4 Students and staff members are requested to record pertinent facts which detail alleged incidents.

2. Formal Complaint Process

If you are unable to resolve the problem informally, proceed with a written or verbal formal complaint as outlined below:

2.1 Procedures For Students

- 2.1.1 Students shall seek assistance from a teacher, counselor, administrator, parent or other trusted adult.
- 2.1.2 Student complaints shall be referred to the principal or the area superintendent.

- 2.2 Procedures For Staff Members
 - 2.2.1 Staff members shall seek assistance from a colleague, federation/union representative, administrator or supervisor.
 - 2.2.2 Staff members shall inform the Director or designate.
 - 2.3 The Director or designate will discuss options to resolve the complaint with the complainant. Where conflict cannot be promptly resolved in a matter satisfactory to the complainant, the employer will notify the alleged harasser, staff member or student, with the information concerning the circumstances of the complaint and undertake a confidential investigation. A staff member or student accused of harassment will be notified in writing at the earliest opportunity by the Director or designate.
 - 2.4 STF/CUPE staff members may be accompanied by their federation/union representative, or may choose a person(s) for moral support during any proceedings relating to the investigation of the complaint, providing no costs are incurred by Division.
 - 2.5 Students and excluded staff members may be accompanied by a person(s) of their choice for moral support during any proceedings relating to the investigation of the complaint, providing no costs are incurred by the Division.
 - 2.6 No student or staff member shall be subject to reprisal, threat of reprisal or discipline as a result of filing a bona fide complaint of personal, discriminatory, or sexual harassment.
 - 2.7 It is recognized that false or malicious complaints may damage the reputation of, or be unjust to, students or staff members and therefore disciplinary action will apply to any individual making a malicious claim.
3. Responding to a Formal Complaint
 - 3.1 A confidential investigation in accordance with due process will be undertaken, expeditiously, under the direction of the Director or designate to substantiate and/or resolve the complaint.
 - 3.2 If the complaint is substantiated a written, confidential report is to be filed with the Director or designate within one month after receiving a formal complaint.
 - 3.3 Appropriate disciplinary action will be taken within one month of receiving the written, confidential report. This action may include counseling and/or courses that develop an awareness of harassment, a verbal warning, a written warning, suspension and/or dismissal. Appropriate remedies toward the complainant may be cited in the written report.
 - 3.4 Harassers who take retaliatory action against students or staff members who have filed complaints will be subject to additional discipline.
 - 3.5 All unsubstantiated complaints will be reviewed with both parties and documentation provided to the individual falsely accused.
 - 3.6 Following the conclusion of the investigation, the employer will inform the complainant and the alleged harasser of the results of the investigation.

4. Supervisory Responsibility

All staff members are responsible for promoting and maintaining a working/learning environment free from personal, discriminatory or sexual harassment. Those staff members with supervisory roles are required to exercise supervisory rights and responsibilities either in the learning of students and/or the work of staff. This administrative procedure does not take away the right to supervise, which may include verbal reminders, verbal warnings, written warnings, student or staff suspensions, or dismissal of a staff member.

5. Confidentiality

Good Spirit School Division will not disclose the identity of the complainant or alleged harasser or the circumstances of the complaint, except where disclosure is necessary for the purposes of investigating or taking disciplinary action in relation to the complaint, or where such disclosure is required by law.

6. Complaint to Human Rights Commission Other Options for Complainants

The foregoing does not prohibit a person being harassed from making a complaint directly to the Saskatchewan Human Rights Commission. Nothing in this Administrative Procedure prevents or discourages an employee from referring a harassment complaint to OHS or The Saskatchewan Human Rights Commission. An employee also retains the right to exercise any other legal avenues available.

Legal Reference: Section 85, 87 108, 109 Education Act
Human Rights Act
Occupational Health and Safety Act
Canadian Charter of Rights and Freedoms
Canada Labor Code
STF Code of Ethics

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