



ADMINISTRATIVE POLICY No. 505

IMPLEMENTATION FALL 2006
REVISED NOVEMBER 3, 2014

HARASSMENT PREVENTION

Purpose:

To provide employees with a positive environment for working and learning that is free of discrimination and harassment and to comply with [The Saskatchewan Human Rights Code](#) and with [The Saskatchewan Employment Act](#).

Principles:

The Division is committed to creating and maintaining a positive work environment where employees, students and volunteers are treated with respect and dignity. The Board recognizes its responsibility to provide education regarding discrimination and harassment, and to provide the opportunity for training to resolve situations that occur.

Scope of this Policy:

This policy applies to all members of the Division community, including individuals employed directly or indirectly within the Division, volunteers and visitors. This policy applies to risks, threats and incidents of discrimination or harassment that occur on Division premises and other work sites under the Division's control, or during the course of any Division-sponsored event.

Situations involving violence or the threat of violence will be handled using the procedures contained in [Administrative Policy No. 512 – Violence Prevention](#).

This policy does not limit or amend the provision of any collective agreement and is not intended to discourage or prevent anyone from pursuing a complaint with the Saskatchewan Human Rights Commission, Occupational Health and Safety, or via any other legal avenues available.

Policy:

Prairie Spirit School Division is committed to creating and maintaining a positive environment for working and learning that is free of harassment, as defined in [The Saskatchewan Employment Act](#) as any inappropriate conduct, comment, display, action or gesture by a person:

- 1) That either:
 - a) Is 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
 - b) Adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated; and
- 2) That constitutes a threat to the health or safety of the worker

To constitute harassment, either of the following must be established:

- a) Repeated conduct, comments, displays, actions or gestures;
- b) A single, serious occurrence of conduct, or a single, serious comment, display, action, or gesture that has a lasting, harmful effect on the worker.

Harassment **does not include** any reasonable action that is taken by an employer, or a manager or supervisor, employed or engaged by an employer, relating to the management and direction of the employer's workers or the place of employment.

Furthermore, both discrimination and harassment are prohibited by law and will not be tolerated. The Division will respond to reports of discrimination and harassment as promptly and effectively as possible and will take appropriate action to prevent and correct behavior that violates this policy.

Responsibilities:

Division Responsibilities

The Division and its officials (director, superintendents, coordinators, principals, vice-principals, managers and supervisors) are responsible for:

- a) taking action to promote a positive, productive environment for working and learning and to correct behaviour that interferes with this goal; and
- b) taking prompt effective action to prevent and address known or apparent incidents of discrimination or harassment whether a complaint is received or not.

Human Resources is responsible for:

- a) providing officials with advice and assistance on dealing with matters involving discrimination or harassment;
- b) determining when a formal investigation will occur;

- c) directing and overseeing formal investigations, as outlined in the procedures.
- d) helping schools and departments create and maintain a positive working environment; and
- e) promoting this policy and ensuring that it is communicated to employees.

Employee Responsibility

In accordance with [The Saskatchewan Employment Act](#), all workers employed by the Division, shall refrain from causing or participating in the discrimination or harassment of another worker or any student, and co-operate with any person investigating allegations of discrimination or harassment.

Non-compliance:

Following procedural fairness, the Division may take action against anyone whose activities are in violation of the law or of this policy, as being in contravention would constitute discrimination or harassment. The actions taken may include, but are not limited to:

- disciplinary action for employees in accordance with the respective Collective Agreement, up to and including the termination of the employment relationship;
- legal action that could result in criminal or civil proceedings.

The Division may also take action against those who were aware of discrimination or harassment, but failed to report it.

HARASSMENT PREVENTION PROCEDURES

1. Confidentiality

The Division will protect the confidentiality of information regarding a potential violation of this policy to the fullest extent possible. The Division will not disclose the name of a complainant or an alleged harasser, or the details of a complaint to any person except where disclosure is necessary for the purposes of investigating the complaint, taking corrective action with respect to the complaint, or as required by law. All parties involved in a complaint are expected to act in the same.

2. Reporting

An employee, who believes that he or she has been subject to behaviour that violates the Policy, should immediately inform the respondent and ask them to stop their behaviour. However, if the behaviour should continue, or be of a

significant nature, the employee should report their concerns immediately to Human Resources, their Administration, their Manager or Supervisor, or their Superintendent.

3. Processes

Allegations of discrimination or harassment may be resolved using informal and/or formal procedures as outlined below.

3.1. Assessment

Human Resources is responsible for any concerns relating to discrimination and/or harassment and assessing whether the nature of the complaint falls within the Policy. Based on the nature of the concern, Human Resources will work with the individual(s) raising the concern to determine:

- a) if the Employee Family Assistance Program (EFAP) or Saskatchewan Teachers' Federation (STF) Counselling Services are an appropriate alternative or adjunct resource;
- b) if the individual wishes to pursue an informal resolution such as problem solving and/or mediation.;
- c) if the concern warrants, or if the complainant wishes, to pursue formal procedures. This will result in a formal complaint being filed and may result in an investigation;
- d) whether to address the issue using another Division procedure or any other remedy available at law.

None of the above actions prevent the complainant from filing a formal complaint at any time using the [Written Complaint Form](#).

3.2 Informal Process

Dependent on the nature of the concerns, Human Resources may recommend an informal resolution process.

Informal processes focus on resolving the problem as opposed to determining right or wrong or taking disciplinary action. This type of resolution may include, but is not limited to consultation, counseling, problem solving, or mediation.

3.3 *Formal Complaint*

A formal complaint of discrimination and harassment may be initiated at any time by filling out a [Written Complaint Form](#) and submitting it to their Administration, Manager or Supervisor, or a Superintendent. The form will then be forwarded to Human Resources, or alternatively, submitted to Human Resources directly.

Human Resources is responsible for:

- a) discussing the allegations or concerns raised by the individual and options available for addressing the concerns;
- b) coordinating the gathering of any available information relevant to the concerns raised; and
- c) Investigation and reporting.

Formal processes focus on establishing the facts and implementing appropriate corrective and/or disciplinary action where appropriate. These approaches, which may include investigations, are typically used to address incidents that involve reports or allegations of serious misconduct, on-going patterns of inappropriate behaviour or situations where the facts of a case are unclear.

The decision to conduct an investigation will be made after the Superintendent of Human Resources has reviewed the written complaint. Human Resources may choose to meet with the complainant and respondent to recommend an attempt to resolve the complaint informally without an investigation.

4. *Investigation*

If it is determined an investigation is warranted, an investigation process will be initiated.

The purpose of a formal investigation is to determine if there is substance to a complaint and decide upon an appropriate course of action to address the issue. Human Resources shall direct and oversee the investigation or delegate authority to conduct the investigation to a third party.

4.1 Principles

Investigations will be conducted in a reasonable timeframe in accordance with the principles of procedural fairness including:

- a) the right to be fully informed of any allegations and given an opportunity to respond to them;
- b) complainants, respondents and witnesses have the right to be accompanied by an observer, who may be a representative or a support person, except for those employees who are covered by a collective agreement and have the benefit of union representation;
- c) the right to request the assistance of an Occupational Health and Safety Officer;
- d) complainants, respondents and witnesses interviewed will be provided an opportunity to review their statements to ensure accuracy.

4.2 Written Report and Executive Summary

When the investigation is complete, a written report and executive summary will be prepared by the Superintendent of Human Resources or designate. The report will contain:

- a) the relevant background information including a summary of the incidents leading to the complaint and a list of the allegations;
- b) the positions of the parties and a summary of evidence or factual assertions supporting those positions;
- c) a determination as to whether or not, on the balance of probabilities, a violation of the Division's policy has occurred; and
- d) a recommendation of action.

A copy of the executive summary will be provided to the complainant, the respondent, Human Resources, and union representative as appropriate.

5. Retaliation and Intentionally False Complaints

This policy prohibits acts of retaliation including threats, intimidation, reprisals or adverse employment or education action, against a person who has filed a complaint or participated in any manner in the investigation or resolution of a report of discrimination or harassment.

Intentionally-false accusations of discrimination or harassment (complaints that are made in bad faith) are also prohibited under this policy. These complaints occur when a person purposefully misrepresents the facts or makes accusations maliciously, without regard for the truth. Where an investigation finds a complainant has knowingly made a false allegation, the complainant will be subject to appropriate discipline.

Intentionally false accusations do not include reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

6. Appeals

There is no appeal under this policy for complainants or respondents who are members of a bargaining unit. These individuals may grieve any disciplinary action taken by the Division to the Director of Education using the grievance procedure in the relevant collective agreement.

6.1 Grounds for Appeal

For complainants who are employees and are not a member of a bargaining unit, an appeal will be considered only on one or more of the following grounds:

- a) The Superintendent of Human Resources or designate had no authority or jurisdiction to reach the decision they did;
- b) There was a reasonable apprehension of bias on the part of the Superintendent of Human Resources or designate;
- c) The Superintendent of Human Resources or designate made a fundamental procedural error that seriously affected the outcome;
or
- d) New evidence has arisen that could not reasonably have been presented to the Superintendent of Human Resources or designate that would likely have affected their decision.

6.2 Appeal Process

Complainants may appeal the decision of disciplinary action by submitting a written request to the Director of Education within ten (10) working days of the date that a summary of the written report was delivered to them. The Director of Education will forward a copy of the written request to the Superintendent of Human Resources or designate who originally decided the case and the other party.

Within ten (10) working days of receiving the request, the Director of Education will select a different Superintendent or designate to hear the appeal and determine the outcome. No individual will be selected who has had direct involvement in the case or is from the school or department of either the complainant or respondent.

The Superintendent or designate who heard the appeal will have fifteen (15) working days to determine the outcome of the appeal and prepare a written decision, which will be provided to the Director of Education.

The Director of Education will have ten (10) working days to consider the decision and make a final written determination. He or she will forward a copy of this determination to the parties and the Superintendent of Human Resources or their designate who originally decided the case.

7. Records

Any information pertaining to reports or incidents will be kept by Human Resources in accordance with existing Division policies for a period of fifty-five (55) years and will only be disclosed when required by law or by a legal or official proceeding.

Records pertaining to complaints that result in disciplinary action will be retained in the employee's official file in accordance with existing Division policies and collective agreements and will be held in confidence subject to the exceptions provided in these procedures.

8. Procedural Modifications

Where an exceptional circumstance arises, the Superintendent of Human Resources in consultation with the Director of Education may authorize modifications to these procedures, provided the modification does not compromise procedural fairness.

Complaints under this policy and these procedures should be reported as soon as possible after the occurrence of the alleged incident(s), and must be

made no later than two (2) years after the alleged incident(s) occurred, barring exceptional circumstances.

Complaints of discrimination and harassment will be given a high priority and addressed as expediently as possible. Timelines in these procedures are intended to serve as guidelines and will be followed to the extent possible.

9. References

Government of Saskatchewan Ministry of Labour Relations and Workplace Safety: www.lrws.gov.sk.ca

[*The Saskatchewan Employment Act*](#)

10. Contacts

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