

## Administrative Procedures

<b>AP-505</b>	<b>Date of implementation:</b> Fall 2006
	<b>Date of update:</b> May 21, 2021
<b>HARASSMENT PREVENTION</b>	<b>Related Administrative Procedures:</b>
	<a href="#">AP-512 Violence Prevention</a> <a href="#">AP-516 General Appeal Procedure</a>

**Purpose:** To protect the rights of employees, Trustees, independent contractors, students, and volunteers to a safe and harassment-free workplace and learning environment, and to be treated with dignity, respect, and fairness. A safe environment produces a climate conducive to both learning and working, therefore, the Division is committed to a workplace that is free of harassment. The Division recognizes its responsibility to provide education regarding discrimination and harassment, and to provide the opportunity for training to resolve situations that occur.

**Scope:** This procedure applies to all members of the Division community, including individuals employed directly or indirectly (independent contractors) within the Division, volunteers, and visitors. This procedure 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 Procedure No. 512 – Violence Prevention.

This procedure 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.

### 1) Definition

- a) The Division defines harassment, in accordance with *The Saskatchewan Employment Act*, as any inappropriate conduct, comment, display, action, or gesture by a person that either:
  - i) 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
  - ii) 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
  - iii) That constitutes a threat to the health or safety of the worker.
- b) To constitute harassment, either of the following must be established:
  - i) Repeated conduct, comments, displays, actions, or gestures; or

- ii) A single, serious occurrence of conduct, or a single, serious comment, display, action, or gesture that has a lasting, harmful effect on the worker.
- c) 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.
- d) 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 procedure.

## 2) Responsibilities

- a) The Division and its officials (director, superintendents, coordinators, principals, vice principals, managers and supervisors) are responsible for:
  - i) Taking action to promote a positive, productive environment for working and learning and to correct behaviour that interferes with this goal; and
  - ii) Taking prompt effective action to prevent and address known or apparent incidents of discrimination or harassment whether a complaint is received or not.
- b) Human Resources is responsible for:
  - i) Providing officials with advice and assistance on dealing with matters involving discrimination or harassment;
  - ii) Determining when a formal investigation will occur;
  - iii) Directing and overseeing formal investigations, as outlined in the procedures;
  - iv) Helping schools and departments create and maintain a positive working environment; and
  - v) Promoting this procedure and ensuring that it is communicated to employees.
- c) 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.

## 3) Non-Compliance

Activities that are in violation of the law or of this procedure would constitute discrimination or harassment. Following procedural fairness, the Division may take action against anyone whose activities contravene the law or this procedure. 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.

#### 4) Confidentiality

The Division will protect the confidentiality of information regarding a potential violation of this procedure 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.

#### 5) Reporting

An employee, who believes that he or she has been subject to behaviour that violates the Procedure, 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 Principal/Supervisor, who will work in conjunction with Human Resources to address their concern.

Employees who are not comfortable reporting to their Principal/Supervisor may report directly to their Learning Superintendent or Human Resources.

#### 6) Processes

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

##### a) Assessment

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

- If the Employee Family Assistance Program (EFAP) or Saskatchewan Teachers' Federation (STF) Counselling Services are an appropriate alternative or adjunct resource;
- If the individual wishes to pursue an informal resolution such as problem solving and/or mediation;

- iii) 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;
- iv) 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 Appendix A – Written Complaint Form.

b) 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.

c) Formal Complaint

A formal complaint of discrimination and harassment may be initiated at any time by filling out Appendix 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:

- i) Discussing the allegations or concerns raised by the individual and options available for addressing the concerns;
- ii) Coordinating the gathering of any available information relevant to the concerns raised; and
- iii) 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, ongoing 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 Deputy Director of Division Services, CFO, CHRO, 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.

## 7) 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.

### a) Principles

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

- i) The right to be fully informed of any allegations and given an opportunity to respond to them;
- ii) 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;
- iii) The right to request the assistance of an Occupational Health and Safety Officer;
- iv) Complainants, respondents and witnesses interviewed will be provided an opportunity to review their statements to ensure accuracy.

### b) Written Report and Executive Summary

When the investigation is complete, a written report and executive summary will be prepared by the investigator and submitted to the Deputy Director of Division Services, CFO, CHRO, or designate. The report will contain:

- i) The relevant background information including a summary of the incidents leading to the complaint and a list of the allegations;
- ii) The positions of the parties and a summary of evidence or factual assertions supporting those positions;
- iii) A determination as to whether, on the balance of probabilities, a violation of the Division's procedure has occurred; and
- iv) 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.

## 8) Retaliation and Intentionally False Complaints

This administrative procedure 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 procedure. These complaints occur when a person purposefully misrepresents the facts or makes accusations that are frivolous or vexatious 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.

## 9) Appeals

There is no appeal under this procedure 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.

Employees who are not part of a bargaining unit may appeal as per AP-516 General Appeal Procedure.

## 10) Records

Any information pertaining to reports or incidents will be kept by Human Resources in accordance with existing Division procedures 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.

## 11) Procedural Modifications

Where an exceptional circumstance arises, the Deputy Director of Division Services, CFO, CHRO, in consultation with the Director of Education, may authorize modifications to these procedures, provided the modification does not compromise procedural fairness.

Complaints under this procedure 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.

*References:*

*Government of Saskatchewan Ministry of Labour Relations and Workplace Safety:*

[www.lrws.gov.sk.ca](http://www.lrws.gov.sk.ca)

[\*The Saskatchewan Employment Act\*](#)

[\*The Saskatchewan Human Rights Code\*](#)

*Support Staff Manulife Employee and Family Assistance Plan*