

**PERSONNEL 3000**

**WORKPLACE HARASSMENT 3031**

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## 1. Rationale

The Simcoe County District School Board (SCDSB) is committed to a workplace free from harassment. The SCDSB upholds the position that no form of harassment is acceptable as provided in section 5(2) of the Human Rights Code (Ontario), R.S.O. 1990, c.H.19, which states:

s.5(2) *Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.*

and as provided in section 7(2) and 7(3) of the Human Rights Code, R.S.O. 1990, c.H.19, which states:

s.7(2) *Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by his or her employer or agent of the employer or by another employee.*

s.7(3) *Every person has a right to be free from,*

- (a) *a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or*
- (b) *a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.*

The policy provides the foundation for internal investigative procedures which will assure employees that harassment is not tolerated, allay fears of retaliation and inspire confidence that complainants and respondents will be dealt with under the principle of due process.

## 2. Policy

It is the policy of the SCDSB to ensure that every employee has a work environment free from discriminatory harassment in accordance with the Human Rights Code (Ontario) and as defined in the *Occupational Health and Safety Act*.

### **3. Definitions**

#### **3.1 Harassment**

Harassment is defined by the Human Rights Code, R.S.O. 1990, c. H.19, as *'engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome'* (section 10(1)(f)). The *Occupational Health and Safety Act, R.S.O. 1990, c.0.1, as amended*, 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 board interprets this to include any behaviour which is known or ought reasonably to be known to the perpetrator to be offensive, embarrassing or humiliating to other individuals. Such conduct includes any written communications (may also include, but not limited to, electronic communication – email correspondence, social media, Twitter, Facebook, Snapchat, etc.), verbal and/or physical conduct and may relate to any of the grounds of discrimination prohibited in employment by the Human Rights Code (Ontario). These grounds include the following: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, religion, sex, pregnancy, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status, disability or the receipt of public assistance and other grounds as amended in the legislation, or identified in case law or by policy of the Human Rights Commission from time to time.

#### **3.2 Sexual Harassment**

Sexual harassment may be experienced by anyone. Sexual harassment is defined in the Human Rights Code (Ontario). Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression.

Relationships between consenting adult employees which are/were voluntary and based on mutual attraction do not constitute sexual harassment. Any harassment towards a former partner may constitute sexual harassment if one party is offended or feeling harassed by the other partner post relationship. Sexual harassment can also include sexual solicitation.

#### **3.3 Racial/Ethnocultural Harassment/Creed**

Racial/ethnocultural harassment may be experienced by anyone. Such harassment generally involves written, verbal and/or physical actions which express negative attitudes, derogation, and/or hate for a person or group of persons based on their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed or religion. Racial/ethnocultural harassment is defined in the Human Rights Code (Ontario).

### 3.4 Workplace

The *Occupational Health and Safety Act* defines a workplace as ‘any land, premises, location or thing at, upon, in or near which a worker works’.

The workplace includes any place where employees perform duties or functions on behalf of the board. Schools and school-related activities, such as extracurricular activities and excursions, comprise the workplace, as do board offices, vehicles, facilities and lands. Conferences and training sessions fall within the ambit of this policy.

### 3.5 Worker

The reference to employee or worker in this policy refers to employees and individuals who meet the definition of “worker” under the *Occupational Health and Safety Act*.

## 4. Guidelines

- 4.1 This policy is intended to protect employees against workplace harassment.
- 4.2 Every individual who reasonably believes that they have been the victim of harassment has the right to initiate a complaint and participate in proceedings under this policy without fear of reprisal or threat of reprisal for doing so. Any such reprisal action will be considered harassment.
- 4.3 Workers are encouraged to report any incidents of workplace harassment to the appropriate person. The appropriate person includes any member of management, including Human Resource Services. If allegations of harassment are against their direct supervisor/manager, please direct their concerns to Human Resource Services.
- 4.4 A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace, such as training, counselling and discipline is not workplace harassment.
- 4.5 Given the sensitive nature of any complaint, every attempt shall be made throughout the resolution of a complaint on the part of all parties concerned to respect the confidential nature of the information to the fullest extent possible, subject to the obligations of the board to investigate and address the complaint, including its legal obligations under the Human Rights Code (Ontario) and the *Occupational Health and Safety Act* or other applicable law.

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- 4.6 A supervisor or other management person who has the authority to prevent or discourage harassment of which they are aware or ought reasonably to be aware is occurring, may be held responsible for failing to exercise their authority to do so under the Human Rights Code (Ontario) and the *Occupational Health and Safety Act*.
- 4.7 The perpetrator of workplace harassment may be disciplined, up to and including termination, where appropriate.
- 4.8 Supervisors are therefore charged with the responsibility for discouraging and preventing employment related harassment, and for ensuring that any known situation of harassment is dealt with immediately in accordance with the workplace harassment procedures, the Human Rights Code (Ontario) and the *Occupational Health and Safety Act* where they are aware, or ought reasonably to be aware that harassment is occurring.
- 4.9 Supervisors are responsible for ensuring that all employees including new employees are aware of the policies and administrative procedures pertaining to this harassment policy and the consequences of engaging in harassment.
- 4.10 Supervisory officers and principals are responsible for ensuring that new appointees to managerial and supervisory positions are aware of their responsibilities under this policy and the related administrative procedures.
- 4.11 Every employee of the board has a responsibility to ensure that the working environment is free from harassment. This responsibility shall be discharged by the avoidance and/or reporting of any conduct which might constitute harassment.
- 4.12 Notwithstanding the existence of this policy, every person continues to have the right to seek assistance from the Human Rights Tribunal of Ontario and the Ministry of Labour.
- 4.13 The Joint Health and Safety Committee and management shall review this policy as often as necessary, but at least annually, as required by the *Occupational Health and Safety Act*.

## 5. Administrative Procedures

The Director of Education is authorized to provide the administrative procedures necessary to implement this policy.

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