



Title: **WORKPLACE HARASSMENT**

Adopted: January 12, 2010
Reviewed: October 1, 2013
Revised: January 2018
Authority: Ontario College of Teachers Act
Occupational Health and Safety Act
Municipal Freedom of Information and Protection of Privacy Act
Human Rights Code

Related Document: Procedure HR - #7

Policy

It is the policy of the Bloorview School Authority (BSA) that harassment and discrimination as defined by legislation and within this policy will not be tolerated by the Board. In keeping with its values and legal responsibilities as an employer, the Board will treat any complaint of harassment, sexual harassment and discrimination as a serious matter. Investigation of any complaint will be completed in a way that is objective, free from conflict of interest or power-based bias.

Principles

1. The Bloorview School Authority (BSA) is committed to providing a working and learning environment in which all individuals are treated with respect and dignity in accordance with the provisions of the Ontario Human Rights Code. Every student, employee, trustee, parent and community member has the right to equal treatment and to learn and work in an environment free of harassment.
2. This policy commits the BSA to providing an environment that promotes professionalism and ethical behaviour consistent with its Code of Conduct. It therefore, requires all persons to exercise behaviour that facilitates the creation of an environment that is conducive to the achievement of excellence and the development of one's potential.
3. A complaint may be initiated by individuals who believe that they have been harassed or by those who are covered by this policy who have witnessed directly or have reasonable grounds to suspect that harassment is occurring.
4. Any determination arising from an investigation will be subject to an appeal process.
5. While employees share responsibility for understanding and preventing harassment and discrimination in the workplace, it is important to recognize that,

under law, administrators carry more responsibility than other employees.

6. The policy and guidelines will be enforced where activities related to the business of the Board take place. These include:
 - activities within offices, staff rooms, classrooms, cafeterias/lunch rooms and other Board property
 - events associated with and including co-instructional and extra-curricular activities
 - situations outside of Board operated premises e.g. field trips, external work assignments, work-related conferences, training sessions, travel or social gatherings
 - activities in other locations where harassment may have a subsequent impact on the work relationship, performance or environment.

7. The fact that a person does not explicitly object to harassing behaviour does not mean that the behaviour is not harassing or is being assented to. Wherever possible, the Board encourages individuals to be explicit about actions or behaviours that are unwanted and to request that such actions or behaviours cease and desist. However, the Board recognizes that it may not always be possible or advisable to directly confront offenders in cases of serious violations or where there are significant power imbalances in the working relationship.

8. The exercise of supervisory responsibilities, including training, performance appraisal, direction, instruction, counselling and discipline does not constitute harassment as long as these are not being exercised in a discriminatory or intimidating manner.

9. Personality clashes and/or interpersonal conflict do not, in and of themselves, constitute harassment.

10. This policy is not intended to address concerns that individuals may have regarding leadership, communication style, or overall performance of Board employees/teaching staff/administrators.

11. The policy cannot be used as a recourse for dealing with a performance appraisal, and the complaints procedures outlined herein should not be invoked for these purposes. The complaint procedures are intended to address workplace harassment and discrimination only.

12. It is fully expected that all parties, including the complainant, the person complained against and/or relevant witnesses, will fully cooperate in the Board's investigation of a complaint of harassment. However, if one or more parties fail or refuse to cooperate, the investigation may proceed utilizing the evidence and information available.

13. All those who are part of the investigation team must ensure an impartial and effective resolution of complaints.
14. The board may select an external consultant to assist with an investigation, if this would best serve the investigation and the resolution of the complaint.
15. Where a formal complaint has been filed, depending on the circumstances of each case, interim measures may be implemented including but not limited to relocating, where feasible, either the complainant and/or respondent while the investigation is being conducted. Such action will be considered on a case-by-case basis to protect the interests of relevant parties.
16. The Board does not condone frivolous or vexatious complaints. If it is determined as a result of an investigation that a complaint was made maliciously with intent to harm or made in bad faith, formal disciplinary action will be taken against the complainant, including, but not limited to: a letter of reprimand, report to the Ontario College of Teachers or other professional colleges, a letter of trespass, suspension or possible termination of employment.
17. Such disciplinary action will be placed in the employee's personnel file. The complainant has the right to receive written notification of this conclusion including reasons and grounds, to respond to it and be represented at all subsequent proceedings.
18. Each and every member of the organization is expected to assist in the implementation of this Policy, by abiding by this Policy and by conducting themselves in a manner which honours diversity, demonstrates professional conduct and mutual respect for others in the workplace.

Guidelines

19. Confidentiality is a critical element to everyone involved in the complaint process. It allows the parties to resolve disputes in a private manner and protects them against unsubstantiated claims that might result in harmful gossip.
20. Retaliation will not be tolerated. Anyone who retaliates against a person for seeking assistance through this policy, or for filing a complaint, may be guilty of harassment and subject to discipline.
21. Protection from reprisal covers both complainants and witnesses who have participated in the Board process. Also protected from reprisal are third party resources, representatives, investigators and management responsible for decision-making functions within this process, acting in accordance with Board Policy and Procedures.
22. This Policy extends to all Board employees, contract employees, parents, students, volunteers and Trustees who are employed by or perform functions for the BSA and recognizes that similarly, each of these groups has the right of freedom from harassment and discrimination in the workplace.

23. Section 5 of the *Human Rights Code* states:

- Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.
- 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.

24. Section 7(2) of the *Human Rights Code* states, "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."

25. Subsection 1(1) of the *Occupational Health and Safety Act* defines:

"workplace harassment" as,

(a) 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 and

(b) **"workplace sexual harassment"** as,

- 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

- 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;

Discrimination: Unfair treatment because of race, sex, colour, ancestry, place of origin, ethnic origin, marital status, sexual orientation, age, disability, citizenship, family status, record of offences, religion (creed), gender identity or gender expression.

Workplace: The workplace is any place where employees, contract employees, volunteers and trustees and other users perform work or work-related duties or functions. Schools and school-related activities, such as extracurricular activities and excursions, comprise the workplace, as do Board offices and facilities. Conferences and training sessions are included within this policy.

Complainant: The complainant is the person who believes they were harassed or discriminated against.

Respondent: The respondent is the person who is alleged to have engaged in harassment or discrimination.

Mediated Complaint Resolution: An informal process whereby the complainant seeks advice or assistance to address the problem with the respondent. The process attempts to resolve the alleged harassment at the lowest level. There are no formal written records or finding (decision).

Formal Complaint Resolution: A process which is initiated by a written complaint by the claimant to the Principal or Director. It requires official investigation of the complaint within a formalized framework. A finding (decision) will normally result, documentation will be in official files and disciplinary action may result.

26. The Board recognizes that not all questionable conduct meets the definition of harassment and discrimination, as described by the Ontario Human Rights Code.
27. Situations involving a pattern of repeated, inappropriate conduct or personal harassment in the workplace, not related to prohibited grounds, may be considered within the scope of this Policy, only if the course of conduct is found to be hurtful, degrading, offensive, malicious, insulting, intimidating or humiliating, or unwelcome.
28. Harassment related to “prohibited grounds” may occur when the behaviour or conduct in question:
 - Would reasonably tend to cause offense, discomfort, humiliation or embarrassment to another person or group
 - Would reasonably tend to be perceived as placing, either implicitly or explicitly, a condition on employment and its terms; or
 - Has the purpose or effect of interfering with a person’s work performance or creating an intimidating, threatening, hostile or offensive work environment.
29. Generally, harassment requires a “course of conduct”, which means that a pattern of behaviour or more than one incident is usually required for a finding of harassment to be made.
30. Depending upon the severity and impact of the behaviour, however, a single significant incident may constitute harassment, if it is found to be sufficiently offensive, threatening or intimidating.
31. With respect to gender, the Ontario Human Rights Code also states that everyone has the right to be free from sexual solicitation or advance and free from reprisal or threat of reprisal from the rejection of a sexual solicitation or advance in accordance with the Ontario Human Rights Code Section 7.3.
32. The Workplace Harassment policy applies to all Bloorview School Authority students, employees, trustees and other users such as members of consultative committees, clients of Bloorview, parents, volunteers, and employees of other organizations not related to Bloorview School but who nevertheless work on or

are invited onto Board premises. This policy also covers harassment by such persons which is proven to have repercussions that adversely affect Bloorview School's learning/working environment.

33. Bloorview School is a place that promotes responsibility, respect, civility and academic excellence in a safe learning and teaching environment. All persons in its learning/working environment will:
- respect differences in people, their ideas and opinions;
 - treat one another with dignity and respect at all times, and especially when there is disagreement;
 - respect and treat others fairly, regardless of their age, ancestry, citizenship, colour, creed (faith), disability, ethnic origin, family status, gender identity;
 - respect the rights of others;
 - show proper care and regard for Board property and for property of others;
 - demonstrate honesty and integrity; and
 - respect the need of others to work in an environment of learning and teaching.
34. Bloorview School Authority has a duty to maintain an environment respectful of human rights and free of harassment for all persons served by it. It must be ever vigilant of anything that might interfere with this duty. Bloorview expects that all persons in its learning/working environment will:
- be aware of and sensitive to issues of harassment;
 - support individuals who are, or have been, targets of harassment;
 - prevent harassment through training;
 - take reasonable steps to remove any discriminatory barriers in employment policy and practices;
 - take all allegations of harassment seriously and respond promptly;
 - provide positive role models; and
 - not demonstrate, allow or condone behaviour contrary to the policy, including reprisal.
35. The Director has the responsibility to designate resources for ensuring the implementation of and compliance with this policy and procedures.
36. A copy of the policy and procedure shall be posted in a prominent location where employees are likely to see it. (i.e. The Health and Safety notice board in the staff room and on the board website).
37. The Principal will ensure that employees are aware of this policy and ensure that it will be reviewed at meetings of parents and students.
38. A complaint may be initiated by an individual who believes that he/she has been harassed or by those who are covered by this policy who have witnessed directly or have reasonable grounds to suspect that harassment is occurring.

39. Any complaint must be filed within six (6) months following the incident(s) of harassment; however, the time limit may be extended at the discretion of the Board.
40. All those who are covered by this policy have the right to complain about harassment and are entitled to have access to the complaint procedures. Every attempt should be made to resolve matters through an informal resolution. The first step is to inform the individuals that their behaviour is inappropriate and must stop immediately. Many complaints can be resolved quickly and effectively using this approach. In order to stop harassment the Director or Principal must address and attempt to resolve complaints under this policy and procedure in a timely fashion.
41. Both a mediated process and a formal complaint resolution process are available.
42. To protect BSA stakeholders from harassment and/or discrimination, the BSA will ensure that an investigation is conducted into incidents and complaints of harassment/discrimination that is appropriate in the circumstances;
43. The BSA stakeholder who has allegedly experienced harassment/discrimination and the alleged harasser, if he or she is an employee of the BSA, 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.