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The Winnipeg School Division is committed to creating a diverse and inclusive community where every person can work and learn in an environment that is supportive of productivity and academic achievement and respects the dignity and worth of all members of the Winnipeg School Division Community. All persons have rights and obligations in ensuring the workplace and learning environment is a safe and healthy environment. No one, whether trustee, administrator, principal, staff, student, parent, volunteer, visitor or contractor should be subject, for any reason or at any time, to discrimination or harassment and/or bullying as defined under the Workplace Safety and Health Act or the Human Rights Code of Manitoba. This policy applies to all activities on Division property and Division sponsored events off our premises.

1. DEFINITIONS

For the purpose of this policy, the following definitions will apply:

- 1.1 The Human Rights Code prohibits discrimination or harassment of any person on the basis of any characteristic referred to in subsection 9(2), whether the harassment is within the context of employment or within the context of services (where students are considered as customers/consumers of educational services).

The characteristics as referred to in subsection 9(2) of The Code include:

- (a) ancestry, including colour and perceived race;
 - (b) nationality or natural origin;
 - (c) ethnic background or origin;
 - (d) religion or creed, or religious belief, religious association or religious activity;
 - (e) age;
 - (f) sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
 - (g) gender-determined characteristics or circumstances other than those included in clause (f);
 - (h) sexual orientation;
 - (i) marital or family status;
 - (j) source of income;
 - (k) political belief, political association or political activity;
 - (l) physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair, or other remedial appliance or device.
- 1.2 Section 19(2) of The Human Rights Code defines "harassment" as:
- (a) a course of abusive and unwelcome conduct or comment undertaken or made on the basis of any characteristic referred to in subsection 9(2); or
 - (b) a series of objectionable and unwelcome sexual solicitations or advances; or
 - (c) a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought to reasonably know that it is unwelcome; or
 - (d) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.



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1.3 Section 19(1) of The Human Rights Code states: "No person who is responsible for an activity or undertaking to which this Code applies shall:

- (a) harass any person who is participating in the activity or undertaking; or
- (b) knowingly permit, or fail to take reasonable steps to terminate, harassment of one person who is participating in the activity or undertaking by another person who is participating in the activity or undertaking."

1.4 Section 1.1 of Regulation 147/2010 of the Workplace Safety and Health Act further defines harassment to be:

- (a) objectionable conduct that creates a risk to the health of a worker; or
- (b) severe conduct that adversely affects a workers psychological or physical well being.

1.5 Section 1.1.1 (1) of the Regulation 147/2010 states that for the purpose of the definition harassment in section 1.1, conduct is

- (a) objectionable, if it is based on race, creed, religion, colour, sex, sexual orientation, gender determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry, or place of origin; or
- (b) severe, if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.

Reasonable conduct of an employer or supervisor in respect of management and direction of workers in the workplace is not harassment.

In this section and in the definition harassment in section 1.1, conduct includes a written or verbal comment, a physical act or gesture or a display, or any combination of them.

2.0 TYPES OF HARASSMENT

2.1 Sexual Harassment may include:

- (a) unwanted, persistent or abusive sexual attention;
- (b) a sexual advance or solicitation made by a person in a position to grant or deny a benefit which may affect the employment status of an employee or the academic status of a student where the individual knows or ought reasonably to know that this attention is unwanted;
- (c) sexually oriented behaviour or remarks which create a negative psychological environment for work or study. Such behaviour or remarks include, but are not restricted to:
 - demeaning remarks based on gender
 - suggestive jokes about sex
 - inappropriate comments about clothing, physical characteristics or activities
 - inappropriate displays of sexual pictures or materials



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- derogatory terms, graffiti which degrades a person based on his/her sex or sexual orientation
 - leering, ogling and suggestive or insulting sounds
 - unwanted questions or comments about one's private life
 - unwanted physical contact, such as brushing up against one's body, patting or pinching
 - sexual assault (an offence under the Criminal Code)
- (d) a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

2.2 Personal Harassment

Any inappropriate conduct, comment, display, action or gesture by a person that is made on the basis of race, creed, religion, colour, sex, sexual orientation, gender determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry or place or origin.

2.3 Bullying

Any repeated humiliation or intimidation that adversely affects an individual's psychological or physical well being. In the case of an isolated incident, harassment is severe conduct which has a lasting harmful effect on the individual.

2.4 Racial/Ethnic/Homophobic Incident

A verbal or non-verbal exchange, expression or graphic/visual display including but not limited to derogatory terms language, images and graffiti which degrades a member or members of a racial/ethnic group or community, or an individual's sexual orientation.

2.5 Hate Crime

An offence such as an assault, threat, or act of vandalism motivated by hatred of the victim's race, religion, sexual orientation, gender or ethnic background.

2.6 Hate Propaganda

Any form of communication that is intended to promote hatred toward groups or individuals. Hate propaganda may be distributed by telephone contact, broadcasting, graffiti, written materials, posters, electronic technology or music.

2.7 What is Not Harassment

Reasonable actions by managers or supervisors to help manage, guide or direct workers or the workplace are not harassment. Appropriate employee performance reviews, counselling or discipline by a supervisor or manager is not harassment.

- 3.0 **COMPLAINANT** refers to the person who believes that he/she is being harassed and has initiated a complaint with the principal/ supervisor or the Division.



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3.1 **RESPONDENT** refers to the person against whom the complaint has been made.

4. GENERAL

- 4.1 Every individual working, learning or volunteering in or visiting a Division facility is entitled to an environment that is free of harassment.
- 4.2 This policy shall apply to trustees, senior administrators, principals, supervisors, staff, students, parents, volunteers, visitors and contractors working in or visiting a Division facility.
- 4.3 The Division shall attempt to ensure, as much as possible, that no person is harassed in Division workplaces and shall work with employee groups and students to recognize and deal with harassment.
- 4.4 Every person working, learning or volunteering in or visiting a Division facility has the responsibility to treat each other with respect. Any person who experiences harassment or is a witness to another person being subjected to harassment must report the conduct to the appropriate individual.
- 4.5 Every person working, learning or volunteering in or visiting a Division facility is responsible to co-operate in the investigation of a harassment complaint.
- 4.6 It shall be a violation of this policy for any person in a Division facility to harass any other person. All formal or informal complaints shall be investigated in accordance with established procedures.
- 4.7 All behaviours shall be judged on the basis of their consistency with human rights and respect for human dignity.
- 4.8 Nothing in this policy precludes the legal right of individuals from exercising any other rights, actions or remedies that may be available to the individual under any other law.

5. CONFIDENTIALITY

Situations involving harassment shall be treated in strict confidence by the Division and any other person(s) involved in the investigation or harassment incident. All information from investigations and interviews pertaining to a complaint shall be shared only with the persons directly involved unless otherwise required by law.

All information provided by the complainant shall be kept confidential unless otherwise required by law. If the complainant is a student or staff member, the information will not be placed in the complainant's file unless the complainant is found to have brought forward a frivolous or malicious complaint or unless required by law.



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6. RESPONSIBILITIES

- 6.1 The Chief Superintendent or designee shall be responsible for the development of procedures to deal with reported cases of harassment.
- 6.2 The Chief Superintendent shall inform all members of the Senior Administration and school principals that harassment is not acceptable under any circumstances and will not be tolerated.
- 6.3 Members of the Senior Administration shall inform members of their department that harassment is not acceptable under any circumstances and will not be tolerated.
- 6.4 All schools/Division facilities shall implement the procedures established by the Division for handling complaints or incidents of harassment and shall inform staff, students and community of the harassment prevention policy.
- 6.5 School principals shall inform staff, parents and students annually (where appropriate) that harassment is not acceptable under any circumstances and will not be tolerated.
- 6.6 Members of the staff shall intervene in those situations where harassment is observed or overheard.
- 6.7 The principal/manager of a School Division facility may obtain consultative advice from the Director of Human Resources in order to resolve an incident of harassment.
- 6.8 If the complaint involves the principal or manager of a School Division facility, the complainant may lodge the complaint with the Director of Human Resources.
- 6.9 A formal complaint of harassment must be made in writing in accordance with the procedures specified hereinafter, detailing the specific allegation(s) and naming the respondent with reference to the complaint.
- 6.10 The Division shall determine whether disciplinary action is warranted against the complainant or the respondent. Any action shall be taken in accordance with the Policy GCP - Discipline & Discharge if the complaint involves an employee or Policy JG - Discipline if the complaint involves a student.

7. EMPLOYEES COVERED BY COLLECTIVE AGREEMENTS

Where provisions with respect to harassment exist within a Collective Agreement, they shall apply. However, the rights conferred by this policy are the minimum rights which all employees are entitled to.



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8. CONSEQUENCES

- 8.1 The handling of complaints or incidents of harassment involving students shall be subject to the procedures established by this policy and with the Administrative Rules of this policy and Policy JG - Discipline. School officials will institute disciplinary measures which will reflect the seriousness of the offenses.
- 8.2 Complaints or incidents of harassment involving a staff member shall be treated as a disciplinary issue and shall be addressed in accordance with the Administrative Rules of this policy and Policy GCP - Discipline and Discharge.
- 8.3 Complaints or incidents of harassment involving or caused by parents or visitors in the school shall be handled in accordance with the Administrative Rules of this policy.
- 8.4 Where it is found that a violation of the policy has occurred, the disciplinary action taken against a staff member or student specified in 6.1, 6.2 or 6.3 may include, but not be restricted to the following:
- (a) verbal warning;
 - (b) written warning included in the staff or student's file;
 - (c) suspension
 - of staff - with or without pay for specified period of time.
 - of students - for a specified period of time or exclusion from a school;
 - (d) transfer to another location;
 - (e) dismissal/expulsion;
 - (f) police involvement;
 - (g) involvement of Child and Family Services
 - (h) exclusion from Division facilities

9. APPEAL

- 9.1 Within seven (7) calendar days of the complainant or respondent becoming aware of action being recommended, the action may be appealed to the Chief Superintendent.
- 9.2 The Chief Superintendent shall review the details of the complaint and render a decision on the action or may substitute an alternative solution to the complaint.
- 9.3 The Chief Superintendent may or may not choose to hear the parties to the complaint before rendering a decision.
- 9.4 This does not preclude the complainant from exercising any other rights, actions or remedies that may be available to the individual under any other law or the Collective Agreement.



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10. RETALIATION

Any individual who retaliates in any way against a person who has complained of harassment, given evidence in a harassment investigation or been found guilty of harassment, will be considered to have committed harassment and will be subject to disciplinary action.

11. VICTIMS OF HARASSMENT

- 11.1 The Division shall ensure that counseling is accessible and available to the victim and, when appropriate to the respondent.



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Rules and regulations governing the handling of harassment cases as determined by the Chief Superintendent.

1. GENERAL

- 1.1 The Winnipeg School Division believes that all trustees, employees, students, parents, volunteers, visitors and contractors have a right to work, study and visit in an environment which is supportive to the dignity of individuals and which is free from harassment.
- 1.2 The Winnipeg School Division further believes that harassment of any individual in or affecting the work or study environment is an intolerable situation which will warrant disciplinary action.
- 1.3 All individuals working, studying, volunteering in or visiting Winnipeg School Division facilities are encouraged to report all instances of harassment.

2. HARASSMENT PROCEDURES – STAFF

- 2.1 A staff member who believes that he/she is being harassed may choose to deal directly with the individual who is believed to be the respondent, may discuss the matter with the principal/ Department Director or may file a formal complaint with the Division.
- 2.2 The principal/supervisor will investigate the complaint at the school/building level and if possible attempt to resolve the situation.
- 2.3 A complaint of harassment shall be made as soon after the incident has occurred as is reasonably possible.
- 2.4 If the complainant does not wish to involve the principal/supervisor or is not satisfied with the resolution, a formal complaint of harassment may be made in writing to the Director of Human Resources detailing the specific allegation(s) and naming the respondent with references to the complaint. This does not preclude the complainant from exercising any other rights, actions or remedies that may be available to the individual under any other law or the collective agreement.
- 2.5 A complaint of harassment which is not filed in a timely manner and based on the specifics of the complaint, may be dispensed without investigation.



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2.6 Investigation

- (a) The Director of Human Resources in conjunction with the Superintendent/Department Director, shall review the complaint and shall determine whether the allegations on which the complaint is based, can be considered harassment as defined in Section 1 of the policy.
- (b) The investigative team shall ensure a gender balance from the members of the administration.

2.7 The investigative team shall inform the complainant whether it has been determined that the allegations constitute harassment or not.

2.8 If the complainant is informed that the allegations do not constitute harassment, the complainant may appeal this decision to the Chief Superintendent in accordance with the process detailed in Section 7 of Policy GCPDA or exercise any other rights, actions or remedies that may be available to the individual under any other law or the collective agreement.

2.9 If the investigative team determines that the allegations constitute harassment, the respondent shall be advised in writing that a complaint has been received.

2.10 Mediation

- (a) At the request of either party and if the investigative team believes that mediation may be an appropriate method of resolving the situation, the Director of Human Resources may appoint a mediator. The mediator shall be selected from a list of approved mediators.
- (b) Only if both parties agree the mediator shall meet without prejudice and attempt to come to a resolution of the complaint.
- (c) The mediator shall report back to the Director of Human Resources whether the complaint has been resolved or not.
- (d) The mediator shall determine what information regarding the attempt at mediation shall be communicated to the Director of Human Resources.
- (e) Information disclosed during mediation shall not be used against either party unless required by law.



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2.11 If a mediator is not appointed or if mediation is not successful, a member of the Human Resources Department and the appropriate Superintendent/Department Head or designee shall interview the complainant, the respondent and any other individual(s) who has been identified as being able to provide information with regards to the complaint.

2.12 Upon completion of the investigation, the investigative team shall attempt to determine in favour of the complainant or respondent and shall communicate their decision in writing to the Superintendent/Department Head.

3. HARASSMENT PROCEDURES - STUDENTS

3.1 A student who believes that he/she is being harassed may file a complaint with the principal or counsellor of the school at which he/she attends.

3.2 Under normal circumstances the school administrators should deal with complaints in accordance with the school's behaviour management policy and procedures.

3.3 Each school may wish to designate two staff members, male and female, who have appropriate skills to respond to complaints of harassment.

3.4 A formal complaint must be made in writing to the principal. The written complaint should include a description of the incident(s) and the name(s) of the person(s) involved.

3.5 An incident where a formal complaint has been made must be communicated to parents of children under the age of 18 and should be encouraged (with the consent of the complainant), when the student is 18 years of age or older. Communication with the parents may be by the student alone or with the support of the designated staff member, the principal or the Superintendent of Schools.

3.6 An incident involving a child under the age of 16, may be construed as child abuse and shall be reported in accordance with Policy JHF - Reporting Children in Need of Protection and the Child and Family Services Act.

3.7 A meeting shall be arranged with the complainant (and his/her parent/guardian if the student is under 18 years of age) and the principal within five school days of receipt of the complaint to review the complaint and to outline the procedures that will be followed to investigate and resolve the matter.

3.8 If the complaint from the student involves an employee of the Division, the principal shall advise the appropriate Superintendent immediately.



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- 3.9 If the complaint involves another student, the following procedures will apply:
- a) The principal or the designated staff members shall review the complaint and shall determine whether the allegations constitute harassment as defined in Section 1 of the policy.
 - b) If the principal or designated staff members determine that the allegations do not constitute harassment, the complainant shall be advised of the determination and that he/she may appeal this decision to the appropriate Superintendent of Schools and/or exercise any other rights, actions or remedies that may be available to the individual under any other law or the collective agreement.
 - c) If the principal determines that the allegations do constitute harassment, the respondent shall be advised that a complaint has been received.
 - d) At the request of either party and if the principal believes that mediation may be an appropriate method of resolving the situation, a mediator may be appointed.
 - e) If a mediator is not appointed or if mediation is not successful, an investigation will be conducted which may consist of personal interviews with the alleged victim, the alleged perpetrator(s) and others who may have knowledge of the incidents or circumstances that led to the complaint.
 - f) Upon completion of the investigation the principal shall attempt to determine in favour of the complainant or the respondent and shall communicate their decision to both parties.
 - g) If the complaint is found to be valid, the principal shall determine what disciplinary action will be taken.

4. INVESTIGATION/MEDIATION PROCESS

- 4.1 Those complaints which are not resolved by the principal/manager of the Division Facility shall be referred to the appropriate Superintendent/Department Director.
- 4.2 The appropriate Superintendent/Department Director shall review the report and consider the following action:
- a) Attempt to resolve the complaint.
 - b) Request that a review team be established to review the complaint.
- 4.3 The review team shall include the appropriate Superintendent or Department Director, the Director of Human Resources and a representative of the appropriate employee group if a staff member is involved in the complaint.



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- 4.4 If the review team believes that mediation may be an appropriate method for resolving the complaint, a mediator shall be selected from a list of approved mediators.
- a) The mediator shall meet without prejudice with both parties in an attempt to come to a resolution of the complaint.
 - b) The mediator shall report back to the review team as to whether the complaint has been resolved.
 - c) The mediator shall determine what information regarding the attempt at mediation shall be communicated to the review team.
 - d) Information disclosed during the mediation shall not be used against either party *unless required by law*.
 - e) If a mediator is not appointed or if mediation is not successful, the review team shall investigate the complaint.
 - f) The complainant, respondent or other individual(s) who have been identified as being able to provide information with regard to the complaint, shall be interviewed.
 - g) Upon completion of the investigation, the review team shall provide recommendations to the Chief Superintendent regarding resolution of the complaint.

5. HATE CRIMES/PROPAGANDA PROCEDURES

- 5.1 Incidents such as assaults, threats, vandalism or communication motivated by or intended to promote hatred toward a group or individual's race, religion, sexual orientation, gender or ethnic background may be grounds for prosecution under the Criminal Code of Canada, The Manitoba Human Rights Act or Civil Litigation.
- 5.2 In instances where it is believed that incidents may be hate crimes or hate propaganda the School Administrator/manager of facility will immediately report the incident to the Superintendent/Department Director and the Police.
- 5.3 Employees who witness an incident or discover propaganda on or in a School Division facility are required to immediately report it to the School Administrator/facility manager and to fully cooperate in the investigation.
- 5.4 If at all possible all materials should not be touched; anyone who is required to handle the material prior to it being examined by the Police should take precautions to ensure that evidence is not destroyed.
- 5.5 In the case of graffiti, arrangements should be made to photograph and document the graffiti.
- 5.6 Employees who are proven to be involved in hate crimes or the communication of hate propaganda shall be dealt with in accordance with the Division's Discipline and Discharge Policy GCP.



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5.7 Students who are proven to be involved in hate crimes or the communication of hate propaganda shall be dealt with in accordance with the Student Discipline Policy JG.

5.8 Parents or visitors who are proven to be involved in hate crimes or communication of hate propaganda shall be dealt with in accordance with the decision of the Chief Superintendent.

6. REPRESENTATION

At any step of the procedures, the complainant or respondent may choose to be accompanied by a friend or union representative in the case of unionized staff, a friend or other counsel in the case of non-unionized staff, or a friend, parent and/or teacher in the case of a student. The friend, representative, or other counsel must be advised as to the requirements of confidentiality and concerns regarding retaliation and must agree to comply with the policy.

This does not preclude the complainant from exercising any other rights, actions or remedies that may be available to the individual under any other law or the Collective Agreement.

7. INTERFERENCE

Any interference or attempt at coercion in the investigative process by or on behalf of the complainant or the respondent shall be considered grounds for immediate disciplinary action in response to the interference or coercion.

8. FALSE ALLEGATIONS

Any individual who is found to have made a complaint that is considered frivolous, or that was filed with malicious intent shall be subject to disciplinary action where appropriate.