

Administrative Regulations

Definitions:

Complaint: Allegation of harassment or discrimination submitted in writing to the District.

Complainant: Employee who has brought forward a complaint under this policy, alleging discrimination or harassment.

Discrimination: Making a distinction between certain individuals or groups, based on personal issues such as:

- Race, religion or religious creed
- Age, gender, sexual orientation or family/marital status
- Disability or disfigurement
- Political opinion
- Colour, ethnic, national or social origin
- Socio-economic status.

Harassment:

Any inappropriate behaviour directed at, or offensive to, any employee and that demeans, intimidates, belittles or causes personal humiliation or embarrassment;

Any inappropriate behaviour that endangers any employee's employment undermines any employee's performance or threatens the economic livelihood of any employee.

Any offensive behaviour of a sexual nature related to a person's gender which creates an intimidating, unwelcoming or hostile work environment, or that could reasonably be thought to put sexual conditions on a person's job or employment opportunities.

Any inappropriate use of power or authority by a supervisor that endangers, undermines, threatens, interferes with or influences an employee's job, the performance of that job, or the economic livelihood of the employee. This does not include the legitimate and proper exercise of supervisory responsibilities such as distribution of work assignments or training opportunities; work evaluation; disciplinary measures taken for valid reasons and/or staffing decisions.

Any behaviour or conduct that is known, or ought reasonably to have been known, to be unwelcome, objectionable or offensive to another individual.

Mediation: Voluntary process used to resolve conflict by having a neutral person assist the disputing parties to arrive at a mutually acceptable solution.

Respondent: Employee(s) against whom a complaint has been made.

Workplace: The workplace is any place where employees and student interns perform work-related duties or functions. Workplaces can include schools, school related activities and excursions, Board Offices and other Board Facilities. Conferences and training sessions fall within the parameters of this policy.

Guidelines for Determining Harassment/Discrimination

The following generally constitutes harassment/discrimination:

- Serious or repeated rude, degrading, or offensive remarks, such as teasing about a person's physical characteristics or appearance, put-downs or insults, spreading rumours about someone's reputation, including those displayed through social media
- Displaying sexist, racist or other offensive pictures, posters, or sending e-mails related to one of the 16 prohibited grounds of discrimination under the Newfoundland and Labrador Human Rights Act, 2010
- Repeatedly singling out an employee for meaningless or unfavourable jobs that are not part of their normal duties
- Threats, intimidation or retaliation against an employee, including one who has expressed concerns about perceived unethical or illegal workplace behaviours
- Unwelcome social invitations, with sexual overtones or flirting, towards a subordinate or colleague
- Unwelcome sexual advances

The following may constitute harassment/discrimination:

- Criticizing an employee in public.
 - Exclusion from group activities or assignments.
 - Statements damaging to a person's reputation.
 - Making sexually suggestive remarks.
 - Physical contact such as touching or pinching.
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The following does not generally constitute harassment/discrimination;

- Normal exercise of supervisory responsibilities including work assignment, feedback on performance and performance issues, training and coaching.
- Personality or interpersonal conflicts.
- The allocation of work.
- Supervisor follow-up on work absences.
- Requiring an employee to perform to generally accepted job standards.
- A single or isolated incident such as an inappropriate remark or abrupt manner.
- Exclusion of individuals for a particular job based on specific occupational requirements objectively and reasonably necessary to accomplish the safe and efficient performance of the job.
- Measures taken against someone who is careless in his or her work, such as in the handling of confidential documents.
- A social/romantic relationship welcomed by both individuals.
- Friendly gestures, consensual banter among co-workers.

ROLES AND RESPONSIBILITIES:

CEO/Director of Education and Executive Team

- promote and maintain a respectful harassment-free work environment;
 - ensure proactive measures are taken to prevent workplace harassment;
 - ensure there are mechanisms in place to implement, monitor and evaluate this policy.
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Human Resources Division

It is the responsibility of the Assistant Director of Education for Human Resources and School Leadership, or designate to:

- provide expertise and advice to departments and individual employees about their rights and responsibilities under this policy;
- receive complaints and provide suggested options for appropriate courses of action in a timely manner;
- conduct or arrange for an investigation to be conducted, as required;
- facilitate education, awareness and prevention initiatives;
- maintain confidential records related to harassment complaints and investigations.

Senior Education Officers, Departmental Supervisors, Managers and Directors

It is the responsibility of Senior Education Officers, Departmental Supervisors and Managers and Directors to:

- lead by example and act respectfully in dealings with all employees
 - be knowledgeable of the contents of this policy;
 - monitor the workplace and watch for signs that harassment and discrimination may be taking place;
 - encourage early and open dialogue before inappropriate behavior escalates;
 - address instances of harassment and discrimination as soon as they are known, even in the absence of a complaint;
 - consult with the Assistant Director of Education for Human Resources and School Leadership, or designate, to discuss appropriate courses of action;
 - when possible, ensure that all employees have the opportunity to participate in available education and training related to harassment and discrimination;
 - ensure that employees within their respective departments are aware of and have access to this policy;
 - respond appropriately when a complaint of harassment has been made;
 - support the Human Resources Division in the timely implementation of recommendations that are the result of the investigation;
 - monitor situations where complaints have been made even after corrective measures have been taken and ensure that individuals are not subject to retaliation of any form;
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Employees

It is the responsibility of employees to:

- treat all employees with dignity and respect;
- respect the diversity brought to the workplace by other employees;
- make complaints, in accordance with this policy, as soon as possible to someone in authority, such as the Human Resources designate or direct supervisor, when they believe they are subject to or witness of harassing or discriminating behavior;
- keep accurate records of any incident of alleged harassment which includes: the time(s), place(s), and description(s) of the alleged incident(s) and names of any witnesses;
- cooperate and share openly and honestly in workplace investigations.

Complainant's Rights and Responsibilities

- to receive fair treatment
- have their complaint treated seriously and investigated thoroughly
- have their complaint held in confidence except as necessary for the investigation
- be accompanied by another person, including a union representative, for support during all interviews related to the complaint
- expect that reasonable steps would be taken to ensure that they are protected from repercussions resulting from the filing of a complaint
- be informed of the outcome of any investigation and be provided with any reports resulting from the investigation
- make a complaint/seek assistance within a reasonable period of time
- cooperate with those responsible for reviewing the complaint
- keep their involvement and complaint confidential
- express the complaint honestly and accurately

Respondents Rights and Responsibilities

- be informed that a complaint has been filed
 - be fully informed of and opportunity to respond to all allegations
 - be accompanied by another person, including a union representative, for support during all interviews related to the complaint
 - respond to the allegations
 - be informed of the outcome of any investigation and be provided with any reports resulting from the investigation
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- keep their involvement and the complaint confidential, except as necessary for investigation of the complaint
- seek assistance or advice from a supervisor or union representative on an appropriate course of action
- not impede the investigation

Resolution

Informal Resolution

- An employee experiencing inappropriate behavior may choose to address the behaviour with the responsible employee. The employee may choose to advise the individual responsible verbally or in writing that their behaviour is offensive and request that it stop. Should the matter be resolved at this step then no further action is required.
 - An employee may decide to approach their supervisor to seek their assistance in dealing with the offensive behavior.
 - The school administrator or supervisor may use problem-solving mechanisms such as coaching, counselling or facilitation/mediation to resolve an issue and prevent a situation from escalating to the point where a formal investigation is necessary.
 - Mediation is NOT appropriate in the following circumstances:
 - i. Not all parties are sincerely committed to the process;
 - ii. One of the parties is in a position to withhold or confer a benefit, since the authority/power imbalance may result in coercion;
 - iii. Alleged actions may be of a criminal nature.
 - If the alleged behaviour is by a supervisor, the employee may choose to discuss the matter with the Director of Human Resources- Support Staff or the Senior Education Officer- Human Resources.
 - The Human Resources Manager or Senior Education Officer will determine, through discussion with the employee, the appropriate course of action. This may include the provision of formal mediation or conflict resolution services, referral to EAP or referral to formal investigation.
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Formal Investigation

- A formal investigation requires the approval of the Assistant Director of Education-Human Resources and School Leadership.
 - A formal investigation shall occur in a timely fashion.
 - A formal investigation shall include a written submission from a complainant outlining allegations. It shall be as specific and detailed as possible including;
 - i. Specific information describing the details of the alleged incident(s) including the name(s) of the person(s) identified as being the cause or origin of the offending conduct or behavior;
 - ii. The time, dates and locations of all the alleged incident(s) outlined in the written complaint;
 - iii. The names of all of the witnesses to the alleged incident(s) outlined in the written complaint;
 - iv. Expectations of the complainant (what outcomes or redress the complainant would like to see).
 - A formal investigation may involve interviewing and obtaining signed statements complainants, respondents and witnesses. An investigation may also include a review of emails, texts, social media etc. or any physical evidence relevant to the allegation being investigated.
 - A formal investigation may be conducted internally or by an external party where warranted as determined by the Assistant Director of Education – Human Resources and School Leadership.
 - Procedural fairness should be the foundation of any formal investigation.
 - The complainant and the respondent have the right to review and respond to each other statements.
 - The findings of an investigation shall be presented to the Assistant Director of Education- Human Resources and School Leadership. The findings may include a determination of whether harassment or intimidation has occurred.
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- The Assistant Director of Education-Human Resources and School Leadership shall review the findings of the investigation. This review may involve consultations with the appropriate Human Resources staff at the district, legal counsel, or other entities to determine an appropriate course of action.
 - Complainants and respondents shall be provided with a written report summarizing the investigation and determinations.
 - Where it is determined that there has been harassing or discriminating behaviour on the part of a district employee or work term/intern student, corrective or disciplinary measures may be taken, up to and including termination of employment or internship.
 - Disciplinary or corrective measures may also be taken in the following situations:
 - a. Where a manager or school administrator has been aware of a situation involving harassment or discrimination but has failed to take corrective action;
 - b. Where someone has interfered with a complaint process through threatening, intimidating or retaliatory behavior;
 - c. Where someone has filed a complaint that is determined to be unfounded or made in bad faith.
 - Employees may choose to file a police report and have the police conduct an official investigation. Should an employee take this course of action then an investigation under this policy may be held in abeyance.
 - Should an employee choose to file an official complaint with the Human Rights Commission of Newfoundland and Labrador then an investigation under this policy may be held in abeyance.
 - The District shall, where warranted, impose discipline on the parties involved irrespective of investigations external to the organization.
 - Certain behaviours may be considered to be of a criminal nature, such as physical or sexual assault. In such cases, the investigator shall advise the complainant to file a report with the police.
 - The District reserves the right to require specific reasons for complaints filed with the District more than six months after their occurrence
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False Allegations

Individuals filing complaints under this policy must do so in good faith and have reasonable grounds for filing such a complaint. The Eastern School District will treat all allegations of harassment as serious. Therefore, employees who deliberately file an allegation of harassment that is false or vexatious in nature shall be subject to discipline up to and including termination.

Inappropriate Behaviour/Objectionable Conduct by Others

Employees may believe that they have been harassed by individuals other than employees or post-secondary students. Such individuals may include (but not be limited to) students, parents, contracted service providers/private operators, volunteers. In such cases, the complainant is encouraged to speak with his/her supervisor or the Assistant Director of Education-Human Resources and School Leadership to determine an appropriate course of action.

Information Management

1. All information and records resulting from the complaint, investigation and resolution shall be maintained at the Human Resources Division under secure measures, separate from employee files.
 2. All discussions, correspondence and other communications related to a complaint under this Policy are confidential. They shall be handled in accordance with the requirements of the Access to Information and Protection of Privacy Act (ATIPPA) and shall not be disclosed without the prior knowledge of the parties involved and the Assistant Director of Education - Human Resources and School Leadership except as required by law.
 3. Collection, use, disclosure and disposal of the information and records shall be in accordance with records management policies and procedures developed by Eastern School District.
 4. Complaints of Harassment and intimidation shall be received and managed in a confidential manner. Parties to any complaint, including witnesses, will be advised of their responsibility to keep matters related to the investigation confidential. However, strict confidentiality cannot be guaranteed.
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