



HUMAN RESOURCES MANAGEMENT 22 – Harassment

Date: Mar. 25, 2003 Revised: Jan. 25, 2012 Responsible Administrator: Associate Superintendent; HR

1.0 RATIONALE

The Board is committed to providing on going assistance to all employees, students and administrative personnel with respect to issues of personal and/or sexual harassment. This includes a comprehensive educational component about the Board's Personal/Sexual Harassment Policy.

2.0 PROCESS

The Superintendent is delegated the responsibility and authority to ensure that procedures are in place to enforce this Administrative Practice.

3.0 GUIDELINES

3.1 Complainant's Responsibility

- 3.1.1 People who believe they have been the subject of harassment by a Sturgeon School Division employee, parent, student or volunteer should make their objection clearly known to the offender and/or the person in authority. While it is preferable that objections to harassment be voiced to the offender, it is not a prerequisite to filing a complaint.
- 3.1.2 Students can obtain advice and assistance regarding strategies designed to address peer harassment or teacher/student harassment by contacting a teacher, a counsellor or an administrator (for example, principal, superintendent).
- 3.1.3 Any complaint must be filed within a reasonable time from the occurrence of the last incident. The Board of Trustees of Sturgeon School Division reserves the right not to deal with any complaint that is based on alleged incidents that occurred more than one (1) year prior to the date of the complaint or where, in the opinion of the Board, the complaint is not under their jurisdiction.

References: *Board Policy: E//4 Harrassment*
Human Rights, Citizenship, and Multiculturalism Act



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3.2 Other Avenues of Recourse

3.2.1 This regulation does not affect an individual's right to file a complaint or to respond to a complaint with the Human Rights Commission or to seek other redress provided for by law. Complaints to the Alberta Human Rights Commission must be filed within one year of the alleged incident or, in the case of a series of incidents, within one year of the most recent incident.

3.2.2 It should also be noted that sexual and other forms of assault are covered under the Criminal Code of Canada and that police may be asked to investigate.

3.3 Complaint Procedure and Right to Appeal

3.3.1 Personal and/or sexual harassment complaints are made in accordance with the Harassment Policy (E/I/11).

3.3.2 All complainants shall have the right to appeal. This includes parental appeals on behalf of minors.

3.4 Confidentiality

3.4.1 Concerns or complaints received pursuant to these regulations shall be held in strict confidence between the complainant, respondent and others who may be required to be involved.

3.4.2 Information regarding the complaint is kept separate and secure from the employee's record of service file.

3.4.3 Any files involving allegations against a student shall be kept separate and secure from that student's official record.

3.4.4 Confidentiality of information is not the same as anonymity. The respondent is entitled to know the identity of the complainant and to receive a written copy of the complaint outlining the specifics of the allegation(s).

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3.5 Breach of Confidentiality

Anyone who breaches confidentiality may be subject to disciplinary action.

3.6 Records

3.6.1 If the allegation of harassment is proven true, the record of the investigation and final disposition will be kept in the employee's file or in the official student record file. After a period of three (3) years, the employee or student may request that all such material be removed from the file. The decision to remove the material is at the discretion of the Superintendent.

3.6.2 If the investigation fails to disclose evidence to support the allegation of harassment, no record of the complaint shall be retained in the respondent's record of service file.

3.7 Vindication

In the event that allegations are shown to be false, the respondent may require that a letter of vindication be included in his or her record of service file.

3.8 Protection Against Retaliation

3.8.1 Retaliation against the complainant for reporting personal and/or sexual harassment will not be tolerated.

3.8.2 Any attempt at retaliation will be viewed as harassment and will be subject to the provisions of this Administrative Practice.

3.9 False Charges

3.9.1 If an investigation determines that complaints were made by an employee in an intentionally false, malicious or vindictive manner, appropriate disciplinary action, dismissal or legal action shall result.

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3.9.2 Intentionally false, malicious or vindictive complaints made by a student shall result in disciplinary action and may include suspension or expulsion.

3.10 Responsibility of Supervisory Personnel

3.10.1 It is the responsibility of all Sturgeon School Division personnel, particularly administrators and supervisors, to take immediate and appropriate corrective action in all situations involving personal or sexual harassment complaints.

3.10.2 It is the responsibility of all supervisory personnel to make staff and students aware of this policy, its regulations and procedures. The Sturgeon School Division will provide appropriate information and educational programs.

3.10.3 The investigation of allegations under this Administrative Practice must be seen as being impartial and objective.

3.11 Student/Student Harassment

3.11.1 When an allegation of harassment is made by one student against another, the matter will normally be resolved in accordance with Student Conduct Policy (F/IV/7) and the school's code of conduct or other regulations.

3.11.2 Concerns relating to harassment by someone other than an employee or student shall be handled on an individual basis. Advice may be sought from the Associate Superintendent, Human Resources.

3.11.3 An employee or student who alleges harassment may pursue either an informal resolution or formal recourse as outlined below. A decision to use this resolution recourse can also be made by the Superintendent or designate.

3.11.4 Inquiries for information relating to harassment or requests for intervention to support an Informal Resolution shall be directed to the Associate Superintendent, Human Resources.

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3.11.5 Complaints of harassment can be made to external sources such as the Human Rights Commission and the employee's union or association.

3.12 Procedure for Informal Resolution

3.12.1 An individual may choose to initiate action to resolve a harassment situation. Possible action could include some or all of the following:

- i. The complainant may inform the harasser that the actions are unwelcome and must stop immediately.
- ii. The complainant may request the involvement of a colleague, administrator or supervisor to provide informal intervention towards an acceptable resolution of the situation.
- iii. The complainant should keep a record of incident(s) that lists dates, times, locations, possible witnesses, description of incident(s), personal response and outcome.

3.12.2 A complainant may wish to approach the situation with the assistance of the Associate Superintendent, Human Resources or an assigned advisor.

- i. The complainant may request oral or written support and/or intervention. The complainant must be prepared to share the nature and details of the complaint with the assigned advisor.
- ii. The advisor will consult with the complainant within ten (10) working days.
- iii. Subsequent to consultation and further exploration of case specifics, the advisor will make a recommendation within thirty (30) working days. If the complaint is not resolved, the parties may move to formal recourse.

3.13 Procedure for Formal Recourse

3.13.1 School Investigations (Student to Student Harassment)

- i. The Associate Superintendent, Human Resources will inform the respondent that a complaint has been received.

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- ii. The Associate Superintendent will conduct an investigation, which may consist of personal interviews with the complainant, the respondent and others who might have knowledge of the incidents or circumstances that led to the complaint. The complainant and respondent and/or parent/guardian shall be contacted at an appropriate point during the investigation.
- iii. Upon completion of the investigation, the Associate Superintendent, Human Resources shall communicate the results to both parties and to parents/guardian.
- iv. If the school official believes the complaint is valid, the school official shall determine appropriate disciplinary actions.

3.13.2 Employee Investigation

- i. The formal process of complaint may be pursued if the informal process does not resolve the situation or if the complainant or the Associate Superintendent, Human Resources believes the formal process to be more appropriate.
- ii. The complainant must submit a formal complaint in writing to the Associate Superintendent, Human Resources to commence a formal process.
- iii. For people with disabilities, communication problems or small children, alternative methods for filing a complaint, such as tape recorders, scribes, and so on, are acceptable.
- iv. Complainants are encouraged to file a complaint as soon as possible after the incident
- v. If at any point in the formal process consensus is reached that the informal approach is more appropriate, the formal process may be suspended.
- vi. If a formal investigation is deemed necessary, the Associate Superintendent, Human Resources shall:
 - a. Advise the alleged harasser, in writing, of the nature and specifics of the allegations and that an investigation has been initiated and will inform the respondent of his or her rights under Board Policy, The School Act and other relevant legislation.
 - b. Advise the complainant of the investigation
 - c. Provide the respondent with a copy of the written complaint.

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- d. Advise both of the policies, procedures and guidelines which will be followed and make both parties aware of the Employee Assistance Program.
- e. Interview the respondent, complainant and witnesses separately.
- f. Investigate
 - i) The investigation shall be carried out by the Associate Superintendent, Human Resources or designate. The complainant has the right to request that the investigation be of the same gender as themselves.
 - ii) The respondent will be given all the details related to the allegations.
 - iii) The respondent is entitled to representation.
 - iv) The respondent shall be provided with the evidence against him or her and shall be given a reasonable opportunity to be heard and reply to that evidence.
 - v) The investigation and report shall not contain or be influenced by information that is prejudicial, ill-founded or irrelevant, and findings of fact shall be based upon evidence, not assumptions.
 - vi) The investigation shall not consider irrelevant information and will consider all relevant information.
 - vii) The investigator shall forward a written report with the findings of the investigation and the recommendations to the Superintendent within thirty (30) working days.
- g. Based on recommendations and evidence in the report, the Superintendent shall take action that is consistent with Board policies and practice relating to employee discipline.
- h. The Superintendent or designate will advise the complainant of the outcome of the investigation; action to redress will be taken as soon as possible.
- i. Appeals by either party must be made in writing to the Superintendent of Schools within ten (10) working days after the said action has been taken.
- j. It should be noted that extenuating circumstances may affect some of the time lines outlined in this document. Such circumstances will be documented and communicated to all parties involved as they arise.

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- k. Appropriate disciplinary action will be taken in the event of intentionally false, malicious or vindictive complaints.
- l. The Superintendent shall assure that appropriate support services are set in place for the employee if the allegations of harassment are dismissed (Employee Assistance Program).
- m. The Superintendent shall also make appropriate support services available for victims of harassment (Employee Assistance Program).
- n. If the Associate Superintendent, Human Resources is identified as the alleged harasser, the entire matter shall be directed to the Deputy Superintendent. If the Deputy Superintendent is identified as the alleged harasser, the entire matter shall be directed to the Superintendent. If the Superintendent is identified as the alleged harasser, the entire matter shall be directed to the Board of Trustees.
- o. The standard of proof to be used in determining if a complaint has merit is based on a balance of probabilities.

3.13.3 Systemic Investigations

- i. To ensure that schools are free from harassment, the Superintendent of Schools may decide to conduct an investigation in the absence of a specific complaint to address, resolve or prevent harassment in the work and/or learning environment. The Superintendent could choose to do this under any of the following circumstances:
 - a. There is a pattern of inquiries and/or complaints over time that suggests the existence of a specific problem that has been identified but not corrected.
 - b. There is reason to believe that a broader, systemic problem exists in the work and/or learning environment that causes, contributes to, or encourages harassment.
 - c. An investigation does not support a complaint but there is reasonable evidence of a broader systemic problem.
- ii. Prior to proceeding with an independent investigation, a summary of the situation that explains why the investigation is being recommended even though there was no complaint will be drafted.
- iii. This summary will be presented to the Superintendent of Schools for consideration. When such an investigation is approved, the appropriate parties will be advised of the intent to conduct a

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systemic investigation, the reasons for initiating the investigation and the process / procedures that will be implemented.

- a. In lieu of a systemic investigation, the Board may also initiate activities to increase awareness of harassment and the effects on staff, students, parents and volunteers.

3.13.4 Right of Appeal

Employees who are not satisfied with action taken with respect to enforcement of this Administrative Practice are entitled to pursue the matter in the manner set forth as follows:

- i. Matters that are covered either by the employee's collective agreement or employment practices and procedures may be pursued in accordance with the grievance or appeal procedure outlined in the appropriate collective agreement or employment practices and procedures document.
- ii. If the matter is not covered by a collective agreement or employment practices and procedures documents, an appeal may be made in writing to the Superintendent of Schools within ten (10) working days.

The Superintendent of Schools will respond within thirty (30) working days.

- iii. Either party has the right to seek civil or criminal redress through the courts or to file a complaint with their union, association or the Alberta Human Rights Commission.

Students who are not satisfied with action taken with respect to enforcement of this Administrative Practice are entitled to pursue the matter set forth as follows:

- i. An appeal may be made in writing to the Superintendent of Schools or designate within ten (10) school days.
- ii. The Superintendent of Schools or designate will respond within thirty (30) school days.

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