

Administrative Procedure 416

Human Resources

HARASSMENT, SEXUAL HARASSMENT AND DISCRIMINATION

PURPOSE

The purpose of this administrative procedure is:

1. To ensure that employees understand that acts of harassment, sexual harassment and discrimination are unacceptable and will not be tolerated.
2. To identify the processes and accountabilities for reporting and investigating incidents of harassment, sexual harassment and discrimination.

This administrative procedure applies to all charter board employees, volunteers and visitors to charter board campuses. All charter board employees, volunteers and visitors are responsible for knowing, understanding and complying with this administrative procedure. Failure to comply may result in disciplinary action up to and including termination of employment or exclusion from the school, campus or organization.

The charter board is committed to a culture of respect and trust in support of student learning. The charter board supports the prevention of harassment, sexual harassment and discrimination and promotes an abuse free environment in which all people respect one another and work together to achieve common goals.

Harassment, sexual harassment or discrimination by any employee, parent or volunteer against another employee, parent or volunteer is strictly prohibited and will not be tolerated.

Investigations regarding incidents will occur in an objective and timely manner as per Administrative Procedure 417, Harassment Reporting and Investigation.

DEFINITIONS

In this administrative procedure:

1. "Respect" is to show regard or consideration for others.
2. "Discrimination" means any type of behavior that includes practices or actions, intentional or otherwise that is exclusionary, denies access or differentiates adversely and is based on such aspects as: race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, or sexual orientation.
3. "Harassment" means engaging in a course of vexatious comments or conduct, against a worker in a workplace, which is known, or ought reasonably to be known, to be unwelcome. This includes comments or actions in the workplace, which negatively affect working relationships or productivity or create a poisoned work environment. Workplace harassment includes psychological or personal harassment and bullying, as well as comments and conduct prohibited under the grounds stipulated in the *Alberta Human Rights Act*. Harassment may occur as one incident, or a series of incidents, involving unwelcome comments or conduct. Examples of harassing behaviour may include but are not limited to:
 - 3.1 verbal abuse or inappropriate displays of anger;
 - 3.2 bullying behaviour;

- 3.3 comments or actions which constitute harassment or discrimination under the *Alberta Human Rights Act*;
 - 3.4 the display, circulation, or electronic transmission of pornographic, racist or other offensive or derogatory text or pictures;
 - 3.5 conduct which interferes with a person's learning or work performance or creates an intimidating, hostile or offensive learning or work environment;
 - 3.6 unfounded complaints which are made in bad faith, in reprisal, frivolously or with malicious intent;
 - 3.7 interfering with a workplace violence or harassment investigation; intimidating a complainant, respondent or witness; or influencing a person to give false or misleading information;
 - 3.8 reprisal as defined in this procedure; and
 - 3.9 any other inappropriate, negative, disrespectful, or unprofessional treatment of others.
4. "Discriminatory Harassment" is a form of harassment based on the protected grounds outlined within Alberta Human Rights legislation, and is against the law. This includes race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, or sexual orientation.
5. "Non-Discriminatory Harassment" is a form of harassment, while not covered under Alberta Human Rights legislation, which is inconsistent with charter board values and desired interpersonal behaviours, and may breach Occupational Health and Safety (OH&S) legislation.
6. "Sexual Harassment" means any unwelcome sexual behavior that adversely affects, or threatens to affect, directly or indirectly, a person's job security, working conditions or prospects for promotions. The *Alberta Human Rights Act* prohibits discrimination based on the ground of gender. Protection from sexual harassment is included under the grounds of gender.
- 6.1 Unwanted sexual advances, unwanted requests for sexual favours, and other unwanted verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - 6.1.1 submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment; or
 - 6.1.2 submission to, or rejection of, such conduct by an individual affects that individual's employment.
 - 6.2 Sexual Harassment may include such things as:
 - 6.2.1 pinching, patting, rubbing or leering, "dirty" jokes, pictures or pornographic materials, comments, suggestions, innuendos, requests or demands of a sexual nature.
7. "Bullying" is a conscious, willful, deliberate, repeated and hostile activity that may be marked by an imbalance of power, intent to harm and/or threat of aggression. Bullying can be verbal,

social, physical, or digital. It can occur between individuals, with a peer group, or between groups.

PROCEDURES

1. General

- 1.1 Employees, parents, volunteers and members of the public must conduct themselves in a manner which promotes and protects the best interests and well-being of students, staff, co-workers, parents, volunteers or visitors.
- 1.2 No charter board employee shall subject any person to harassment or discrimination.
- 1.3 Action may be taken against individuals whose conduct has resulted in harassment, sexual harassment or discrimination of students, employees, or representatives of the charter board.
- 1.4 The legitimate and proper exercise of management's authority or responsibility does not constitute harassment.

2. Role of Supervisor

- 2.1 All supervisors are responsible for:
 - 2.1.1 informing themselves and their employees, volunteers, and visitors of this administrative procedure; and
 - 2.1.2 taking immediate and appropriate action to address harassment, sexual harassment or discrimination, in consultation with the human resources director.

3. Role of Employee

Charter board employees are responsible for:

- 3.1 complying with this administrative procedure;
- 3.2 conducting themselves appropriately;
- 3.3 making the decision to file a harassment, sexual harassment or discrimination complaint; and
- 3.4 cooperating with efforts to report, investigate and resolve matters related to harassment, sexual harassment or discrimination issues.

4. Reporting

- 4.1 Individuals are encouraged to make their objection known to the offender when they believe they have been the subject of harassment, sexual harassment or discrimination by a charter board employee, student or volunteer.
- 4.2 Any harassment, sexual harassment or discrimination complaint must be made within one year from the date the last incident occurred.

5. Resolution

- 5.1 A harassment, sexual harassment or discrimination complaint may be resolved by any one or all of the following methods:

- 5.1.1 informing the respondent that the actions are unwelcome and must stop immediately;
- 5.1.2 requesting a colleague, administrator or supervisor to provide informal intervention towards an acceptable resolution of the situation where the complainant is uncomfortable approaching the respondent directly; and
- 5.1.3 completion of a formal investigation initiated through a formal complaint.

6. Informal Resolution

- 6.1 An informal resolution may take place between the complainant and the alleged offender, directly or with the assistance of a third party.
- 6.2 If the complaint is not resolved by an informal resolution, the complainant may initiate a formal complaint as per Administrative Procedure 417, Harassment Reporting and Investigation.

7. Investigation of a Non-Specific Complaint

- 7.1 In the absence of a specific harassment, sexual harassment or discrimination complaint the superintendent may recommend an investigation where:
 - 7.1.1 there is a pattern of inquiries or complaints over time which suggests the existence of a specific problem which has been identified but not corrected;
 - 7.1.2 there is reason to believe that a broader, systemic problem exists in the learning and working environment which causes, contributes to or encourages harassment, sexual harassment;
 - 7.1.3 as the result of an investigation, a specific complaint is not supported but there is reasonable evidence that a broader systemic problem exists; or
 - 7.1.4 in any other circumstances the superintendent deems it appropriate.
- 7.2 When an investigation of a non-specific harassment, sexual harassment or discrimination complaint is approved, the superintendent must:
 - 7.2.1 appoint an investigator, and
 - 7.2.2 advise the parties:
 - 7.2.2.1 of the independent investigation;
 - 7.2.2.2 the reason for initiating the investigation;
 - 7.2.2.3 the name of the investigator; and
 - 7.2.2.4 the process and procedures which will be used in the investigation.

8. Retaliation

- 8.1 Retaliation against an individual for any of the following is strictly prohibited and will be subject to discipline, up to and including termination of employment, or exclusion from school campuses:

- 8.1.1 invoking this administrative procedure whether on their own behalf or on behalf of another individual;
 - 8.1.2 participating or cooperating in any investigation under this procedure; or
 - 8.1.3 associating with a person who has invoked or participated in this procedure;
 - 8.2 If an individual believes they have experienced retaliation, they must inform their supervisor and/or the assigned investigator about the exact nature of the behavior.
 - 8.3 The supervisor and/or assigned investigator may initiate an investigation into the allegations of retaliation.
9. False Accusations
- 9.1 If an investigation determines that a complainant falsely accused another of harassment, sexual harassment or discrimination knowingly or in a malicious or vindictive manner, the complainant may be subject to disciplinary action, up to and including termination of employment.
10. Confidentiality
- 10.1 Harassment, sexual harassment or discrimination inquiries or complaints are confidential and may only be disclosed to a charter board delegated person in accordance with current legislation for the purposes of:
 - 10.1.1 investigating and responding to an inquiry or complaint;
 - 10.1.2 advising the respondent about the complaint and the identity of the complainant;
 - 10.1.3 advising the supervisor of the complaint and the identity of the complainant and respondent; or
 - 10.1.4 disclosing the outcome of the investigation.
 - 10.2 Any unauthorized disclosure of confidential information relating to a harassment, sexual harassment or discrimination inquiry or complaint may result in disciplinary action.
11. Employee Personnel File
- 11.1 All records of a harassment, sexual harassment, and discrimination or retaliation investigation must be kept separate from the respondent employee's personnel file except where the complaint is determined to be substantiated.
 - 11.2 If the complaint is determined to be substantiated, the record of notice of any disciplinary action will be kept in the respondent's employee personnel file.
12. Other Actions
- 12.1 This administrative procedure does not affect an individual's right to file a complaint or to respond to a complaint with the Alberta Human Rights Commission or to seek other redress as may be provided by law.

Legal Reference: *Education Act*
Alberta Human Rights Act
Child Youth and Family Enhancement Act
Employment Standards Code
Occupational Health and Safety Act
Canadian Charter of Rights and Freedoms
Canadian Human Rights Act

Cross Reference: AP-417 - Harassment Reporting and Investigation
AP-403 - Personnel Files

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