

Administrative Procedure 170

HARASSMENT

Background

All members of the education community have a right to work and learn in a respectful environment that is free from harassment.

Prairie South School Division is committed to taking every reasonably practical measure to create and maintain work environments where employees, students and volunteers are treated with respect and dignity. The Board recognizes its responsibility to provide education regarding harassment, and to provide the opportunity for training to resolve situations that occur. The Board is committed to taking corrective action respecting any person under the Board's direction who subjects any person to harassment.

Procedures

1. Definition of Harassment

This harassment administrative procedure covers the following:

1.1 Harassment Based on Prohibited Grounds

This includes any inappropriate conduct, comment, display, action or gesture by a person that:

- 1.1.1 Is made on the basis of race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; and
- 1.1.2 Constitutes a threat to the health or safety of the worker.

This type of harassment is prohibited in the *The Saskatchewan Employment Act* and *The Saskatchewan Human Rights Code*.

1.2 Sexual Harassment

- 1.2.1 Sexual harassment is conduct, comment, gesture or contact of a sexual nature that is offensive, unsolicited or unwelcome.
- 1.2.2 Sexual harassment may include:
 - 1.2.2.1 A direct or implied threat of reprisal for refusing to comply with a sexually orientated request
 - 1.2.2.2 Unwelcome remarks, jokes, innuendos, propositions or taunting about a person's body, attire, sex or sexual orientation
 - 1.2.2.3 Displaying pornographic or sexually explicit pictures or materials

- 1.2.2.4 Unwelcome physical contact
- 1.2.2.5 Unwelcome invitations or requests, direct or indirect, to engage in behavior of a sexual nature
- 1.2.2.6 Refusing to work with or have contact with workers because of their sex, gender or sexual orientation

1.3 Personal Harassment

- 1.3.1 This includes any inappropriate conduct, comment, social media posts, display, action or gesture by a person that:
 - 1.3.1.1 Adversely affects a worker's psychological or physical well-being; and
 - 1.3.1.2 The perpetrator knows or ought to reasonably know would cause the worker to be humiliated or intimidated.
- 1.3.2 Personal harassment must involve repeated conduct or a single, serious incident that causes a lasting harmful effect on the worker. All incidents of inappropriate conduct should be appropriately addressed to ensure that the workplace remains respectful and free of harassment.
- 1.3.3 Personal harassment may include:
 - 1.3.3.1 Verbal or written abuse or threats
 - 1.3.3.2 Insulting, derogatory or degrading comments, jokes or gestures
 - 1.3.3.3 Posting demeaning or defamatory social media posts
 - 1.3.3.4 Personal ridicule or malicious gossip
 - 1.3.3.5 Unjustifiable interference with another's work or work sabotage
 - 1.3.3.6 Refusing to work or co-operate with others
 - 1.3.3.7 Interference with or vandalizing personal property

1.4 What is Not Harassment

- 1.4.1 This harassment administrative procedure does not extend or apply to day-to-day management or supervisory decisions involving work assignments, job assessment and evaluation, workplace inspections, implementation of appropriate dress codes and disciplinary action. These actions are not harassment, even if they sometimes involve unpleasant consequences. Note that managerial actions must be carried out in a manner that is reasonable and not abusive.
- 1.4.2 The administrative procedure also does not extend to harassment that arises out of matters or circumstances unrelated to the worker's employment. For example, harassment that occurs during a social gathering of co-workers that is not sponsored by the employer is not covered. However, harassment that occurs while attending a

conference or training session at the request of the employer is covered within this administrative procedure.

- 1.4.3 Other situations that do not constitute harassment include:
 - 1.4.3.1 Physical contact necessary for the performance of the work using accepted industry standards
 - 1.4.3.2 Conduct which all parties agree is inoffensive or welcome
 - 1.4.3.3 Conflict or disagreements in the workplace, where the conflict or disagreement is not based on one of the prohibited grounds

Harassment can exist even where there is no intention to harass or offend another. Every person must take care to ensure his or her conduct is not offensive to another.

2. Employer's Commitment

- 2.1 Prairie South School Division will take all complaints of harassment seriously. We are committed to implementing this administrative procedure and to ensuring it is effective in preventing and stopping harassment, as well as creating a productive and respectful workplace.
- 2.2 This commitment includes the following:
 - 2.2.1 Informing All Persons in the Workplace of their Rights and Obligations
 - 2.2.1.1 A copy of the harassment administrative procedure will be provided to all workers as part of their initial employment package.
 - 2.2.1.2 A copy of the harassment administrative procedure will be posted on the school division website.
 - 2.2.2 Protecting Workers Trying to Prevent or Stop Harassment
 - 2.2.2.1 Harassment complaints and investigations will be held in the strictest of confidence except where the disclosure is necessary for the purposes of investigating the complaint, taking corrective action with respect to the complaint or as required by law.
 - 2.2.2.2 Action will be taken to prevent reprisal against persons who make a harassment complaint in good faith, which may mean informing complainants and alleged harassers of this commitment.
 - 2.2.3 Promptly Taking Action Necessary to Stop and Prevent Harassment
 - 2.2.3.1 Appropriate action, sufficient to ensure the harassment stops and does not happen again, will be taken against persons who are or were engaged or participated in harassment.

- 2.2.3.2 When necessary, other visitors to the workplace will be informed that certain conduct directed towards staff will not be tolerated or allowed to continue.

3. Employee's Duty

- 3.1 In accordance with Part III of *The Saskatchewan Employment Act*, all workers employed by Prairie South School Division shall refrain from causing or participating in the harassment of another worker, and co-operate with any person investigating harassment complaints.

4. Complaint Procedure

This administrative procedure sets out the complaint procedure that shall be used following instances of harassment.

- 4.1 Complainants have three (3) recommended courses of action: personal contact, an oral report, or a written report.
- 4.2 Because it is often best if allegations of personal harassment are resolved closest to the source of harassment, it is recommended that the complainant first approach the respondent to attempt to resolve the alleged harassment.
- 4.3 If the complainant believes personal contact would not satisfactorily resolve the situation, the complainant may report the incident orally to his or her immediate supervisor.
- 4.4 The immediate supervisor shall review the complaint and report orally his or her findings to the complainant and the respondent within two (2) weeks. Such a review is to include an interview with the respondent and may include other interviews as deemed appropriate by the supervisor.
- 4.5 Notwithstanding the preceding protocols, the complainant may submit a formal, written complaint to his or her Central Office supervisor. In the event the respondent is the Central Office supervisor, the written complaint is to be forwarded to the Director of Education. In the event the respondent is the Director of Education, the written complaint is to be forwarded to the Board Chair. The complaint must be recorded in writing and include the following:
- 4.5.1 Name of the complainant and contact information
 - 4.5.2 Complainant's work location
 - 4.5.3 Complainant's supervisor
 - 4.5.4 Name of person(s) against whom the complaint is made
 - 4.5.5 Description of the incident, including dates and location of events
 - 4.5.6 List of possible witnesses
 - 4.5.7 Type of resolution sought (Examples include an apology, supervisory counselling, a facilitated meeting with the alleged harasser, workshops or training sessions and mediation)

- 4.6** Following receipt of the formal, written complaint, the Central Office supervisor and Superintendent of Human Resources or designate shall investigate the complaint. Investigators must act in accordance with the following guidelines:
- 4.6.1 The investigation commences and concludes as soon as reasonably possible
 - 4.6.2 Witnesses are interviewed separately and written witness statements are prepared
 - 4.6.3 Witnesses are asked to review and sign their written statements
 - 4.6.4 Witnesses are advised to keep the investigation and the identity of the complainant and alleged harasser in confidence, unless they are required to disclose them by law
 - 4.6.5 The complainant and alleged harasser are entitled to be accompanied by legal or union counsel during the interview and investigation process
 - 4.6.6 During the investigation process, both the complainant and the alleged harasser are entitled to be informed of all the allegations made against them and allowed the opportunity to make full answer and defense
 - 4.6.7 This does not mean that either party is entitled to see or receive copies of the complete statements. However, both are entitled to see or receive an adequate summary of the evidence to make a full answer and defense.
- 4.7** The investigation team shall provide a written report to the Director of Education within three (3) weeks of the date of the formal complaint. The written report shall include a summary of the evidence, a description of any conflict in the evidence, the conclusions on the facts and reasons for reaching those conclusions, as well as the recommended corrective action where harassment has been found to have occurred.
- 4.8** The Director of Education along with the investigation team shall meet with the complainant and the respondent, separately, to review the findings of the investigation.
- 4.9** If the alleged harassment is determined to be true, the respondent may be subject to appropriate disciplinary procedures as determined by the Director of Education, which may include any or a combination of an oral reprimand, written reprimand, suspension, and/or dismissal.
- 4.10** Where harassment has not been substantiated no action will be taken against an employee who has made the complaint in good faith.
- 4.11** This procedure is not intended to discourage or prevent a complainant from exercising any other legal rights pursuant to law.

5. Taking Action to Stop and Prevent Harassment

In taking action to stop harassment and prevent its reoccurrence, Prairie South School Division will be guided by the following considerations and options.

5.1 Individual Awareness and Counselling

- 5.1.1 Individuals may not be aware of the effects of their behavior. In many cases, speaking to the person in private about the inappropriate behavior will be enough to resolve a situation.
- 5.1.2 In certain instances, it may be more effective for a supervisor to speak with the offending person or to arrange and facilitate a meeting between the complainant and alleged harasser.
- 5.1.3 Complainants should not be encouraged to confront the alleged harasser if they are reluctant to do so, if the alleged harassment is of a very serious nature or if the alleged harasser denies engaging in the alleged conduct.

5.2 Interim Action

- 5.2.1 A department manager or superintendent may have grounds to believe that a complainant will be exposed to continued harassment or reprisal while waiting for the investigation or resolution process to occur. The department manager or superintendent must take immediate action to protect the worker from continued harassment or reprisal. Any interim action should respect the alleged harasser's rights based on the employment contract or collective bargaining agreement in place.
- 5.2.2 Considering the above-mentioned rights, the department manager or superintendent's action may include:
 - 5.2.2.1 Cautioning the alleged harasser about the types of behavior that will not be tolerated
 - 5.2.2.2 Moving the alleged harasser to another work facility
 - 5.2.2.3 Moving the complainant to another work facility at the complainant's request
 - 5.2.2.4 Suspending the alleged harasser with pay while waiting for a final determination
- 5.2.3 Such action will only be after consultation with the Superintendent of Human Resources or designate.

5.3 Mediation

- 5.3.1 Mediation offers both parties the opportunity to develop an understanding of the problem and resolve the complaint before or during the formal investigation process. The mediator facilitates separate discussions or joint meetings between the complainant and the alleged harasser, for the purpose of resolving the complaint. Mediation may take place at any point in the resolution process as long as both parties agree to participate in mediation.

5.4 Disciplinary Action

- 5.4.1 An employee who has knowingly engaged or participated in the harassment of a co-worker will be disciplined. The discipline will be subject to the employee's rights under the employment contract or collective bargaining agreement in place.

5.4.2 The discipline imposed on an employee, who is found to have engaged or participated in harassment in the workplace, may include reprimand, relocation, demotion, suspension or termination of employment.

5.4.3 The severity of the discipline will depend on the following:

5.4.3.1 Seriousness of the Alleged Conduct

- Whether the conduct is an offence under the criminal code
- Whether the conduct is an offence under *The Saskatchewan Employment Act* or *The Saskatchewan Human Code*

5.4.3.2 Rights Code

- The extent of the mental or physical injury caused to the complainant by the conduct
- Whether the harasser persisted in behavior that was known to be offensive to the complainant
- Whether the harasser abused a position of authority

5.4.3.3 Risk of the Harasser Continuing with Similar Harassment of the Complainant or Others

- Whether the harasser acknowledges that conduct was unacceptable and makes a commitment to refrain from participating in future harassment
- Whether the harasser has apologized to the complainant or taken action to repair any harm caused by the conduct
- Whether the harasser has agreed to participate in awareness sessions, training or other recommended counselling or treatment

6. Third-Party Harassers

6.1 This administrative procedure covers harassment connected to any matter or circumstance arising out of the worker's employment. Parents, volunteers, visitors, contractors or their workers and others invited to the workplace could engage or participate in the harassment of an employee. Prairie South School Division may have limited ability to investigate or control their conduct. However, Prairie South School Division shall take reasonably practicable action to stop or reduce the risk to its workers of being harassed by third parties.

6.2 This action may include:

6.2.1 Requiring certain contractors and their workers to accept and meet the terms of the harassment administrative procedure and removing workers who participate in harassment from the workplace.

- 6.3** Where an individual has been asked to stop abusing or harassing a worker and does not, workers are authorized to end telephone conversations, politely decline service and to ask the individual to leave the workplace.

7. Malicious Complaints

- 7.1** It is uncommon for someone to make a false claim deliberately, but it can happen. Where an investigation finds a complainant has knowingly made a false allegation, the complainant will be subject to appropriate discipline.

8. Other Options for Complainants

- 8.1** Nothing in this administrative procedure prevents or discourages a worker from referring a harassment complaint to Occupational Health & Safety.
- 8.2** A worker may also file a complaint with the Saskatchewan Human Rights Commission under *The Saskatchewan Human Rights Code*.
- 8.3** A worker also retains the right to exercise any other legal avenues available.

Reference: Section 85, 87 Education Act
Human Rights Code
The Occupational Health and Safety
Regulations, 1996
Employment Standards Act
Canadian Charter of Rights and Freedoms
STF Code of Ethics

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