
Health and Safety

Workplace Harassment Procedure
EHS 4.2

Peel District School Board

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1.0 PURPOSE and APPLICATION

The Peel District School Board is committed to providing a working and educational environment in which all individuals are treated with respect and dignity and that no one is subject to workplace harassment or workplace sexual harassment.

This procedure is intended to provide a greater awareness of *the value of establishing and maintaining respectful learning and working environments* and of responsiveness to the damaging effects of all types of workplace harassment. Procedures have been developed to ensure that workplace disputes attributed to workplace harassment in any form are dealt with expeditiously. These procedures supplement the board's philosophy and its obligations under the Ontario *Occupational Health and Safety Act* ("OHSA") and [Occupational Health and Safety Policy #56](#) and will be applied with due care and attention to the process and individuals involved.

The workplace harassment procedure applies to all members of the board community, including but not limited to; trustees, students, employees, visitors such as parents and community members, volunteers, permit holders, contractors and employees of other organizations who work or are invited onto board property. All members of the board community are accountable for complying with this procedure and maintaining a harassment free environment.

Board premises extend to any place where work or work-related duties or functions are performed including work by means of telephone, written or electronic communication. Schools and school-related activities, such as extracurricular activities and excursions, comprise the workplace, as do board office and facilities. Conferences and training sessions also fall within the scope of this procedure.

The rights of students to a respectful learning environment, free from negative factors such as harassment and violence, are dealt with under other appropriate board policy, including but not limited to, the [Safe Schools Policy #48](#).

Where allegations relate to discrimination on the basis of a ground prohibited by the Ontario *Human Rights Code*, they shall be addressed using [Human Rights Policy #51](#).

2.0 DEFINITIONS

2.1 Workplace Harassment

Workplace Harassment is defined in the *Occupational Health and Safety Act* (OHSA) as *“engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome”*.

2.2 Workplace Sexual Harassment

Workplace Sexual Harassment is defined in the *Occupational Health and Safety Act* (OHSA) as *“engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.”*

For the purpose of this procedure, Workplace Harassment includes any and all forms of harassment, including workplace sexual harassment.

A complaint filed under the Workplace Harassment procedure does not require a prohibited ground of discrimination.

Examples of workplace harassment under these definitions may include, but are not limited to:

- Unwelcome words or actions that are known to be offensive, embarrassing, humiliating or demeaning to a worker or groups of workers;
- Behaviour that intimidates or isolates against a worker or groups of workers;
- Bullying, intimidating or offensive jokes or innuendos, display or circulating offensive pictures or materials, or offensive or intimidating phone calls or emails or social media postings;
- Repeated words or actions, or a pattern of behaviours, against a worker or groups or workers in the workplace that are unwelcome;
- Asking for sex in exchange for a benefit or a favour;
- Making unnecessary physical contact, including unwanted touching.

Workplace Harassment does not typically include:

- Performance management;
- Operational directives;
- Job assignments;
- Inadvertent management errors;
- A single incident;
- Any other reasonable action taken by an employer or supervisor relating to the management of workers or the workplace.

2.3 Other Terms

Complaint / Report	A complaint or report of an incident of workplace harassment.
Complainant	An employee of the board who believes they have been subjected to workplace harassment.
Respondent	A person named as the perpetrator of workplace harassment by the complainant.
Resource People	Board employees to whom complaints of workplace harassment may be reported to including but not limited to: superintendents, principals, managers and supervisors.
Designee	The person assigned by the Director of Human Resources Support Services to investigate complaints of workplace harassment. The designee may be an internal or external designee depending on the circumstances.
Reprisal	Any act of retaliation that occurs because a person has complained of or provided information about an incident of workplace harassment.
Trivial/Frivolous	Trifling or inconsequential, of very little importance, not serious, i.e. every day when my colleague dusts her desk and computer the dust lands on my desk.

3.0 RESPONSIBILITIES

Shared Responsibilities:

To ensure the preservation of a productive, safe and peaceful working and educational environment:

- Everyone involved with the Peel District School Board shares a responsibility to create and maintain an environment free of workplace harassment and to act respectfully to one another.
- Anyone who witnesses workplace harassment is responsible for bringing it to the attention of their Manager or Supervisor and for participating in any subsequent investigation of the complaint.

Management Responsibilities:

Managers or Supervisors are responsible for understanding what constitutes harassing behaviour and conducting themselves in accordance with the spirit and intent of this procedure.

Managers or Supervisors shall:

- Provide positive role models and act respectfully in their interactions with all members of the Peel District School Board community.
- Communicate to members of their respective areas that workplace harassment is not permitted and will not be condoned or ignored.
- Demonstrate by leadership and action a commitment to the prevention of harassment by maintaining an environment free of workplace harassment.
- Communicate the principles of the “Workplace Harassment Prevention” procedure and uphold its intent.
- Ensure all members of their respective work areas receive appropriate information on workplace harassment and this procedure.
- Take appropriate steps to address issues of harassment, regardless of whether a formal complaint has been filed.
- Provide information to workers on various support programs/mechanisms available to them (i.e. Employee and Family Assistance Program).

Employees (including supervisors) Responsibilities:

Employees shall:

- Act respectfully in their interactions with all members of the Peel District School Board.
- Serve as role models in the workplace by promoting a harassment free workplace.
- Cooperate with the Peel District School Board in efforts to investigate and resolve matters arising under this procedure (the employee may choose to request union representation where applicable).
- Abide by the requirements of this procedure and applicable processes.
- Report any incidents of workplace harassment that have been experienced or witnessed in accordance with the applicable procedure(s).
- Participate in training as required.

4.0 FREEDOM FROM REPRISAL OR THREAT OF REPRISAL

Any reprisal or threat of reprisal is not acceptable. Any complaint of reprisal will be addressed consistently with the provisions of this procedure. Engaging in a reprisal (or threatening to do so) may result in disciplinary action, up to and including termination of employment.

Reprisal includes:

- 1) Any act of retaliation that occurs because a person has complained of or provided information about an incident of workplace harassment;
- 2) Intentionally pressuring a person to ignore or not report an incident of workplace harassment; and/or
- 3) Intentionally pressuring a person to lie or provide less than full cooperation with an investigation of a complaint or incident of workplace harassment.

Although false and frivolous accusations of harassment occur in rare instances, such false accusations are serious offences because they may have serious consequences for the respondent.

The insufficiency of evidence to prove a complaint does not mean that the complaint was submitted in bad faith. A malicious or bad faith complaint means that a person who made a complaint did so when they knew or should clearly have known it was untrue.

An employee who makes a false complaint or otherwise abuses this procedure may be disciplined up to and including termination of employment. Such discipline is not reprisal or breach of this procedure.

5.0 TIMELINES

There is an expectation that all complaints be laid **within one (1) year** of the offending incident(s) unless the delay was:

- Justified because of extenuating circumstances, and
- Would not result in substantial prejudice (disadvantage) to anyone.

This mandatory time limit may be waived in the board's sole and exclusive discretion if it is satisfied that the delay was incurred in good faith and that no substantial prejudice will result to any person affected by the delay.

6.0 WHO MAY INITIATE A COMPLAINT

All individuals who believe that they have been subjected to such conduct may report the workplace harassment. In addition, those who have witnessed harassment directly, or have reasonable grounds to suspect that it is occurring, may initiate a report. Anonymous reports will not be entertained under this procedure.

It may be appropriate in some instances for those who consider that they have been subjected to workplace harassment or harassment-related reprisal to voice their objection directly to the person(s) responsible, and clearly indicate that the conduct is unacceptable. *This may resolve the issue.*

Formal complaints must be submitted in writing using the Workplace Harassment Reporting Form--See APPENDIX C

7.0 REPRESENTATION

Employees may choose to have a union/association representative throughout the process under this procedure. It would normally be expected that a single representative be in attendance throughout the process, however, in unusual circumstances and after discussion with the Manager of Labour Relations or designee, an additional union/association representative may be included in the process.

Should the complainant and/or respondent(s) elect to obtain legal counsel or any other non-union/association representative, the individual party shall be responsible for any cost incurred.

8.0 INFORMAL RESOLUTION PROCESS

Informal Resolution is a *first* step in this procedure.

In all cases, supervisory and managerial personnel have a duty to respond to and take action to resolve any alleged or suspected situations involving harassment. Informal resolution is a procedure that provides an opportunity for parties to resolve a dispute in a mutually respectful manner and is strongly encouraged prior to filing a formal complaint. This can prevent escalation of the situation and further negative consequences while promoting the restoration of a healthy learning or workplace environment.

*** At any time during this process, the Board should consider any appropriate steps/action it may need to take in the interim (even if an investigation is ongoing).*

When the complainant and respondent are both teachers, the complainant is reminded of the reporting obligations of Section 18(1)(b) of the *Teaching Profession Act*.

9.0 FORMAL COMPLAINT PROCESS

Complainant Initiates Complaint within one (1) year.

9.1 Intake Process (Thirty (30) calendar days)

The complainant must contact the Manager of Labour Relations or designee with written details of the allegations using the Workplace Harassment Reporting Form (Appendix C) prior to the expiry of the one (1) year time limit. At that point the Intake Process will commence. **Within the first twenty (20) calendar days** of the Intake Process, the Manager of Labour Relations or designee will meet with the complainant to:

- 1) review and confirm the allegations and request any further details and provide any documents related to the alleged incidents;
- 2) review the options available for resolution of the matter such as Alternative Dispute Resolution (ADR)/Mediation and offer mediation. See Appendix "B";
- 3) discuss with the complainant the threshold assessment process and standard to be met in order for an investigation to proceed; and
- 4) explain the investigation process and the burden of proof required to be met.

Summary of Intake Letter

No later than twenty (20) calendar days into the Intake Process the Manager of Labour Relations or designee will issue a Summary of Intake Letter to the complainant summarizing the allegations and notifying the employee that a formal threshold assessment will be made based on the allegations. At this point the complainant will have ten (10) calendar days to provide any further information relevant to the complaint before the threshold assessment is completed. The Intake Process will end after thirty (30) calendar days.

*** In the case of complaints against the Manager of Labour Relations, the complaint will be submitted to the Director of Human Resources Support Services who will assume responsibility for the process.*

9.2 Threshold Assessment

Following the Intake Process, all formal complaints filed under this procedure shall be subject to a threshold assessment by the Manager of Labour Relations or designee in conjunction, where necessary, with the Manager of Abilities, Wellness and Attendance, to determine whether the alleged conduct would, if proven, meet the definition of workplace harassment. Following the threshold assessment, the complainant will be advised in writing, within fifteen (15) calendar days, as to whether any further action under this procedure will be taken.

Reasons as to why a complaint would not proceed further may include, but are not limited to:

- Facts provided do not meet the definition of Workplace Harassment or Workplace Sexual Harassment;
- Does not provide sufficient details of the alleged behaviour (provided the complainant is given notice that insufficient details have been provided and given reasonable time to provide sufficient details);
- Is vexatious, frivolous or trivial, has not been made in good faith or would, if investigated, constitute an abuse of the procedure;
- Exceeds the one year timeline and does not provide extenuating circumstances and would result in substantial prejudice (disadvantage) to anyone;
- Is beyond the scope of this procedure; or
- Where the subject matter of the complaint is raised in an alternative forum such as a Human Rights complaint under Policy #51, a grievance with the Labour Relations Board or the Human Rights Tribunal of Ontario, a complaint under this procedure may not be accepted.

Please note that with notice to the complainant, the timelines listed above for the Intake Process, Summary of Intake and Threshold Assessment may be amended to address non-working periods in the school year calendar (i.e. summer/winter/March breaks).

9.3 Standard of Proof

The standard of proof to be applied is the balance of probabilities which is a standard requiring that a dispute be decided in favour of the party whose claims are more likely to be true. Essentially, it states that something must be more likely to have happened than not to have happened.

9.4 Investigation Process

Formal complaints which meet the threshold assessment require an investigation of the allegation(s) in the complaint. An investigator will be assigned by the board under its sole and exclusive discretion and may be the supervisory staff of the complainant and/or the respondent or a third party investigator.

In formal investigations, the designee investigator (supervisory or managerial personnel or third-party investigator) who conducts the investigation shall ensure that the investigation is conducted according to the principles of procedural fairness.

The investigator will be responsible for establishing the facts, including interviewing the complainant, the respondent(s) and relevant witnesses. The complainant, respondent(s) and witnesses may be called upon with minimal advance notice to ensure the timeliness of the investigation process.

The investigation process will occur as follows:

- The investigator will emphasize to all parties to the investigation the need to maintain confidentiality and not discuss information with any other party.
- The investigator will interview the complainant.
- The respondent will be informed of the complainant's identity.
- The respondent will be informed of any and all allegations.
- The investigator will interview the respondent(s), and provide them with the opportunity to respond to the allegation(s).
- The investigator will interview relevant witnesses identified by either the complainant or the respondent(s) as having knowledge of the alleged incident.
- The investigator will collect and review any relevant documents.
- If necessary, at the discretion of the investigator, the complainant, the respondent(s) or witness(es) may be re-interviewed.
- The investigator will take appropriate notes and statements during interviews with the worker who has allegedly experienced workplace harassment, the alleged harasser and any witnesses.
- The investigator will prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the worker claiming harassment, the response from the alleged harasser, the evidence of any witnesses and the evidence gathered. The report will set out findings of fact and come to a conclusion about whether workplace harassment was found or not. The report will be provided to the Manager of Labour Relations to take appropriate action.

*** At any time during the investigation, the parties may agree to hold the investigation in abeyance and attempt to achieve a mediated resolution. See Appendix "B".

9.5 Sharing of Findings of Fact

Following the investigation, findings of fact will be shared and a decision will be made by the board. Separate meetings will take place with both the complainant and the respondent(s), along with their respective representatives. At this meeting the investigator will share, verbally, the findings of fact with respect to the investigation and the board will share its decision in regard to whether the evidence indicates a violation of this procedure. Subsequent to the meeting, the complainant and the respondent(s) will receive a written summary of the findings of the investigation. Information related to any corrective actions implemented will be shared however, such information shared with regards to any corrective action(s) taken will take into account the right to privacy of employees and will not include personal information.

10.0 SUBSTANTIATED COMPLAINTS

Consequences – Remedial and Disciplinary Action

Individuals, regardless of status, seniority or tenure, influence or position, found to have engaged in conduct in violation of this procedure will be subject to appropriate consequences in accordance with the circumstances of the event, and within the parameters of any applicable legislation. Consequences may include, but are not limited to the following, either singularly or in combination depending on the individual circumstances:

- Writing letter of apology or regret;
- Attending appropriate sensitivity or other required training;
- Restricted access to services provided by the Peel District School Board;
- Restricted or barred access to Peel District School Board property;
- Receiving a letter of caution or expectation;

- Receiving a letter of discipline, with a copy to the Human Resources file;
- Suspension without pay;
- Termination of employment;
- Where applicable, being reported to the College of Teachers or other self-regulating professional colleges; and/or
- Revocation or non-renewal of permit or privileges.

Disciplinary or corrective measures may also be taken against any other person who could be deemed to be a “directing mind “of the Peel Board who is aware of a breach of this procedure and who fails to take corrective action; or anyone who interferes with the resolution of a complaint by threats, intimidation or retaliation.

11.0 UNSUBSTANTIATED COMPLAINTS

In the event a complaint is not substantiated, no further action will be taken, subject to the section on maintaining records. However, the board may take any steps that it deems appropriate, including but not limited:

- counselling for the parties;
- application of strategies to restore a positive working or educational environment;
- mediation;
- workshops for the staff and/or others in the school/workplace;
- permanent separation of respondent and complainant from each other; and/or
- restorative measures.

Where the complaint is not substantiated, the board will send a letter confirming same to the respondent and the complainant.

12.0 RECONSIDERATION PROCESS

A decision of the board may be reconsidered for one of the two following reasons:

- the investigator fails to comply with this investigation procedure;
- new evidence becomes known after the final decision but before the expiry of the 30 calendar days limitation period for requesting a review.

To initiate a request for reconsideration a written request must be made to either the Associate Director of Instructional Support Services (ADISS) or, where applicable, to the Associate Director of Operational Support Services (ADOSS) or designee **within 30 calendar days of the sharing of findings meeting.**

The board will not reconsider decisions based on a disagreement with the factual conclusions drawn by the investigator.

The ADISS, ADOSS or designee will issue a written decision.

13.0 MISUSE OF THE COMPLAINT PROCEDURE

If there is a determination on a balance of probabilities that a complaint or information regarding a complaint has been filed in bad faith, the complaint process may be discontinued and disciplinary action may be taken against an employee up to and including termination of employment.

14.0 CONFIDENTIALITY

It is the duty of the supervisory and managerial personnel to maintain confidentiality in the complaint and investigation processes. All complainants, respondents and other persons involved with the complaint and investigation processes under this procedure will ensure that all matters remain confidential to the extent practicable and appropriate under the circumstances except to the extent necessary to protect workers, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

Witnesses should be informed that supervisory and managerial personnel, in obtaining a statement, will maintain said statement in confidence, subject to their ability to conduct a full and thorough investigation.

Notwithstanding the above, confidentiality is not the same as anonymity. Procedural fairness requires that the respondent to a complaint be apprised of the nature of the complaint and by whom it has been made so that they have an opportunity to speak to the allegations.

The board may be required to provide information obtained during an investigation to an outside agency that has the right to require information otherwise protected by the *Municipal Freedom of Information and Protection of Privacy Act*.

Nothing in this procedure denies or limits access to other avenues of redress available under the law or through the filing of a grievance. In such cases, this process shall cease until the parties and their respective representatives have consulted with the Director of Human Resources Support Services or designee to determine which dispute resolution process will proceed .

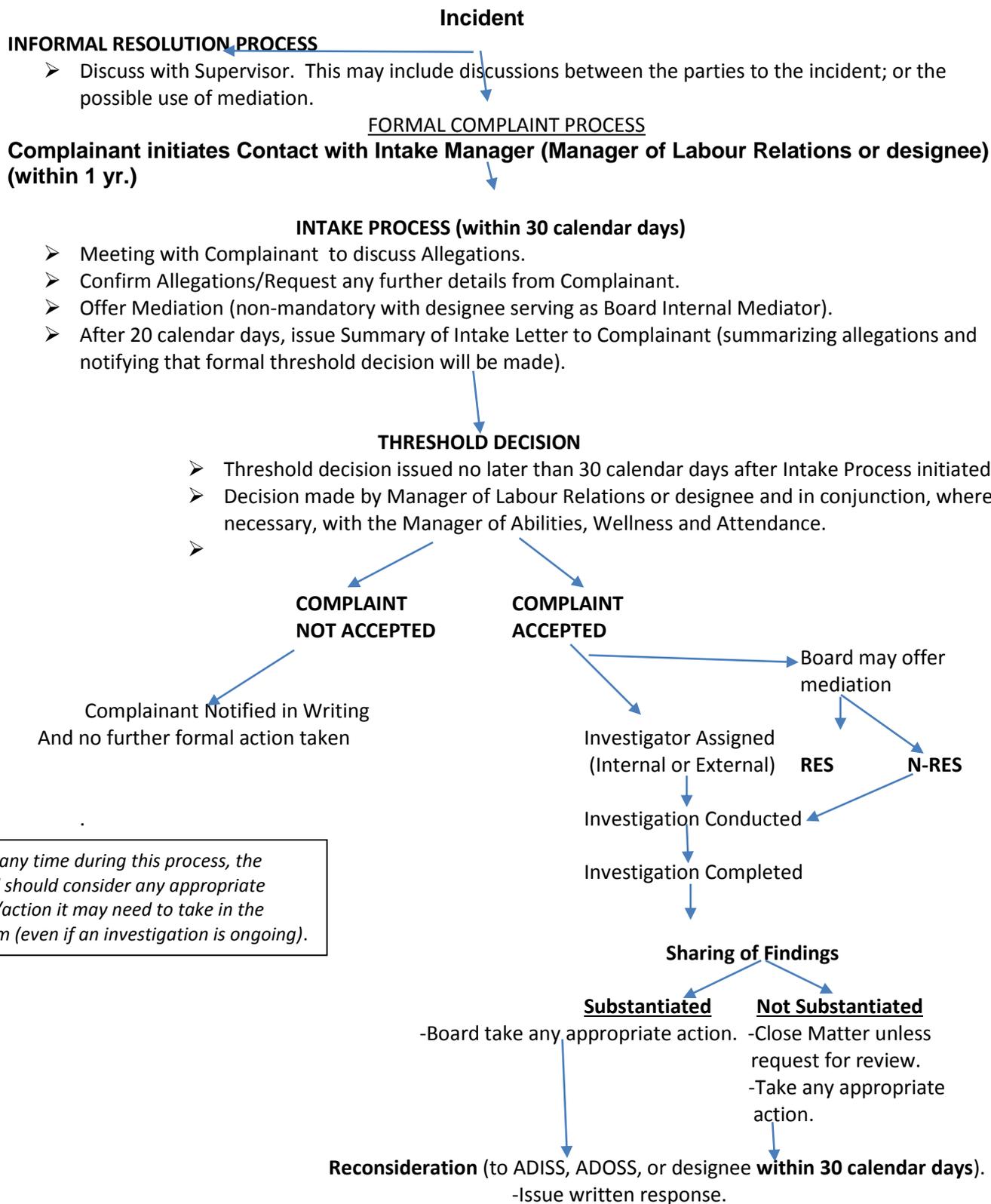
15.0 RECORDS

The secure storage of all records of complaints, including notes from meetings, interviews, results of inquiries, and other relevant materials will be the responsibility of the Director of Human Resources Support Services and will not form part of an employee's Human Resources file. All records of complaints will be kept confidential by the board except where disclosure is required by law or as a consequence of litigation, potential or actual or where necessary in order to effect a remedy.

16.0 ANNUAL REVIEW

As required by the *Occupational Health and Safety Act*, this procedure will be reviewed annually by the board. The results of the review will be shared with the Multi-Workplace Joint Health and Safety Committee who may make recommendations for changes to this procedure.

WORKPLACE HARASSMENT COMPLAINT FLOWCHART



*** At any time during this process, the Board should consider any appropriate steps/action it may need to take in the interim (even if an investigation is ongoing).*

MEDIATED RESOLUTION

Mediation is a voluntary process in which a trained impartial third party, the mediator, facilitates communication between parties and assists them to reach, on their own, a mutually acceptable resolution to a dispute. Mediation is appropriate when all parties agree that a mutually agreeable solution is achievable and desirable.

The use of mediation to resolve harassment situations is strongly encouraged, even after a traditional investigation has been initiated. Where there is already a formal complaint being investigated under these procedures, at any time during the investigation, the parties may agree to hold the investigation in abeyance and attempt to achieve a mediated resolution. The decision to participate in a mediation process requires that both parties sign an Agreement to Mediate prior to mediation and the Memorandum of Agreement at the end of the process. Mediation is a voluntary process and can be terminated by either of the parties at any time.

Once the parties have agreed to mediation, a mutually agreeable mediator will be provided as soon as possible. The assistance in the selection of a mediator may be obtained from the Manager of Labour Relations.

The role of the mediator involves keeping the channels of communication open, helping the parties express their needs, identifying issues that need to be addressed and facilitating problem solving.

Meetings required for mediation sessions shall be scheduled as soon as possible and, where practical, at a time and place convenient for the complainant, the respondent and the mediator.



WORKPLACE HARASSMENT - REPORTING FORM

<p>Section A: Complainant / Worker Information</p> <ul style="list-style-type: none"> • Reported by: _____ • Reported date: _____ • Department: _____ • Supervisor: _____ • Job / Position: _____ • Phone/E-mail: _____ • Complainant's Union/Association affiliation: _____
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<p>Section B: Respondent Information</p> <p>Respondent(s) Name: _____</p> <p>Respondent(s) Union/Association affiliation (if any): (highlight)</p> <table border="0"> <tr> <td><input type="checkbox"/> ASG</td> <td><input type="checkbox"/> OSSTF</td> </tr> <tr> <td><input type="checkbox"/> CUPE 1628</td> <td><input type="checkbox"/> OSSTF OT</td> </tr> <tr> <td><input type="checkbox"/> CUPE 2544</td> <td><input type="checkbox"/> PEOT</td> </tr> <tr> <td><input type="checkbox"/> ERFPP</td> <td><input type="checkbox"/> PETL</td> </tr> <tr> <td><input type="checkbox"/> OPSEU 283</td> <td><input type="checkbox"/> PSSP</td> </tr> <tr> <td><input type="checkbox"/> OPSEU 292 LTSS</td> <td><input type="checkbox"/> Other (including non-employee respondents:</td> </tr> <tr> <td><input type="checkbox"/> OPSEU 292 MSSA</td> <td></td> </tr> </table>	<input type="checkbox"/> ASG	<input type="checkbox"/> OSSTF	<input type="checkbox"/> CUPE 1628	<input type="checkbox"/> OSSTF OT	<input type="checkbox"/> CUPE 2544	<input type="checkbox"/> PEOT	<input type="checkbox"/> ERFPP	<input type="checkbox"/> PETL	<input type="checkbox"/> OPSEU 283	<input type="checkbox"/> PSSP	<input type="checkbox"/> OPSEU 292 LTSS	<input type="checkbox"/> Other (including non-employee respondents:	<input type="checkbox"/> OPSEU 292 MSSA	
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When the complainant and the respondent are both teachers, the complainant is reminded of the reporting obligations of Section 18 (1)(b) of the Regulation made under the Teaching Profession Act.

<p>SECTION C: Complainant's description of the incident</p>		
Date of Incident:	Time of Incident: (highlight) <input type="checkbox"/> AM <input type="checkbox"/> PM	Exact Location of Incident:
<p>Incident occurrence date(s) over a certain period in time (e.g., Can be specific date or set of dates, e.g., three times in the last month.) Nature of behaviour being complained about (e.g. verbal, written, physical, sexual):</p>		
<p>Harassment under prohibited grounds of discrimination* * Where discrimination is alleged on the basis of a ground prohibited by the Ontario <i>Human Rights Code</i> (i.e. incidents involving harassment based on the prohibited grounds of discrimination: sexual orientation, sex, race, colour and place of origin, religion, disability, etc.), the matter should be redirected through Human Rights Policy #51.</p>		

Witnesses relevant to alleged incidents (Name and Contact Information):	
1. _____	
2. _____	
3. _____	
Complainant's detailed explanation of events in order of sequence of occurrence: (please attach separate sheet if necessary)	
Has the respondent been informed by you or anyone else that the behaviour was unwelcome? If no, why not? If yes, what was the response? <i>(highlight)</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO
Has the complaint been reported previously? <i>(highlight)</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO
If Yes, the date when this occurred: <i>(highlight)</i>	_____
Has there been an attempt at an informal resolution: If Yes, the date of the informal resolution: <i>(highlight)</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO _____
If Yes, to whom, and what actions were taken?	
Has the representative union/association been contacted? <i>(highlight)</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO
The information contained in this form is confidential and every reasonable step will be taken to maintain confidentiality in accordance with the provisions of the <i>Municipal Freedom of Information and Protection of Privacy Act</i> . This form and any attachments will be copied to the respondent(s) named above, in accordance with the Formal Complaints Process.	
Please provide a copy of this form to your immediate Supervisor and the confidential address below. If your immediate supervisor is the alleged harasser, please submit only to the address below: Email completed form to: EHS4.2@peelsb.com OR Fax completed form to the Labour Relations confidential fax line : 905 890-1110	