



## **ACCESSIBILITY:**

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# **Investigation and Resolution Procedures for Complaints Concerning External Persons - Workplace Harassment or Discrimination**

## **PROCEDURES:**

Human Resource Services is referred to as “HRS”

The Waterloo Catholic District School Board (WCDSB) is committed to providing a safe and equitable, harassment and discrimination free environment for all of its employees and trustees. In order to respect the personhood and dignity of all persons as outlined in the WCDSB’s Mission, Vision, Guiding Principles and Expectations for Ethical Behaviour, Professional Standard of Ethics and legal responsibilities, any employee or trustee of the WCDSB who feels that they have been harassed or discriminated against is encouraged to seek support and resolution by accessing the Board’s policy and procedures outlined in this document.

The intent of this process is to achieve the earliest resolution possible, to promote the Gospel principle of reconciliation where possible, and to maintain the dignity of the complainant, the respondent(s) and the witness(es) throughout the process. The Board is committed to supporting and protecting the complainant and ensuring that the process for the respondent is supportive, objective and fair.

A supervisor, manager, or HRS team member (a person in authority) who knew or should have known about the harassment or discrimination from the information or facts in their possession will be held responsible if they fail to acknowledge, report and appropriately address the harassment or discrimination.

Occurrences such as physical or sexual assault are not resolved through this procedure. Physical and sexual assault, criminal harassment and uttering threats are all Criminal Code offences. In discussion with the complainant, the police will be consulted. The Board will co-operate fully with the victim and the police.

There are separate procedures for dealing with employee related complaints of harassment or discrimination, non-employee (external persons) harassment or discrimination and special circumstances.

## **CONSULTATION/SUPPORT**

An Employee (hereafter known as the ‘complainant’) who believes they have been harassed or discriminated against by a non-employee (hereinafter known as “the external person”), such as a parent, guardian, volunteer, student, service provider or other member of the public through the course of their duties or in connection with their work or employment with the Board is encouraged to disclose incidents of harassment or discrimination as soon as possible and to seek assistance to stop the alleged harassment or discrimination.

If the complainant feels comfortable doing so, they are encouraged to go directly to the external person and clearly communicate that they feel that the external person’s behaviour is unwelcome and unacceptable and that it must stop.

A complainant who feels that they are being harassed or discriminated against can choose to consult their immediate Supervisor, Administrator, Union/Association designate, or the person designated in Human Resource Services to discuss and clarify concerns, consider options, and formulate possible course(s) of action. The



complainant is strongly advised to keep detailed records of the incidents including times, dates, locations, circumstances, witness(es) and the nature of the behaviour. This information will be critical to an investigation and resolution process.

The Supervisor, Administrator, Union or Association designate, or the designated Human Resource Support Services person who is consulted will discuss and share the following information with the complainant:

- The Board's Harassment or Discrimination Investigation and Resolution Process will be shared and discussed with the complainant.
- Any safety concerns will be identified. If the complainant has concerns regarding their safety, they should make this clear so that immediate steps can be taken to ensure that the complainant is protected.
- The complainant should be reminded that they can contact the Board's Employee Assistance Program (EAP) provider for support.

If a supervisor witness(es) or becomes aware of harassment or discrimination that the employee is not willing to report, the supervisor must advise the Superintendent of HR, or designate.

If a verbal complaint has been made the Superintendent of HR, or designate and the employee is unwilling or unable to put the complaint in writing, the Superintendent of HR, or designate will interview the employee and document the above information.

A complaint should be submitted within 12 months of the date of the incident(s). Any complaints submitted after this timeline will be reviewed by the Superintendent of HR or designate to determine if the complaint will proceed.

### **Investigation and Resolution Process**

To initiate a formal complaint, the complainant will submit incidents or complaints of harassment or discrimination in writing to their administrator, manager or the Superintendent of HR, or designate. The administrator or manager will consult with the Superintendent of HR.

Note to Teachers: A member of the Ontario Teachers' Federation shall, on making an adverse report on another member, furnish the individual with a written statement of the report at the earliest possible time and not later than **three (3) days after making the report**. However, if the report concerns a teacher and the sexual abuse of a student, the written statement would not be required (Regulation made under the Teaching Profession Act – Section 18 (1) (b) & (c)).

The complainant will be requested to provide the following.

- Their name, and how they would prefer to be contacted.
- The name(s) of the external person, their role (vendor, parent etc.), and any known contact information.
- The details of what has occurred, including dates, frequency and locations where the alleged incident(s) occurred.
- Names of any witness(es) or other person(s) with relevant information regarding the incident(s) and any known contact information.
- Any supporting documents (e.g. letters, emails, notes, social media posts, photos etc.) the employee has in their possession that are relevant to the complaint
- List any documents that a witness(es), another person or the alleged respondent may have in their possession that are relevant to the complaint.

Witness(es) name(s) will not be shared with the respective parties, unless required by law or collective agreement. If the name of a witness is necessary to disclose in order to understand the context of their statements, the witness will be asked to sign a permission form that will allow their name to be shared with the parties involved. The Superintendent of HR, or designate, within three (3) working days of receiving a written complaint, will review the details of the complaint to determine if the complaint may meet the definition of harassment or discrimination as identified in this Policy, the Ontario Human Rights Code or the Occupational Health & Safety Act.



If the complaint does not meet the definition of harassment or discrimination, the Superintendent of HR, or designate, will advise the complainant in writing within five (5) working days and will provide recommendations to the complainant as to how their concerns can be addressed through the appropriate mechanism.

If the initial investigation indicates that the complaint may meet the definition of harassment or discrimination, the Superintendent of HR, or designate will commence the investigation and fact gathering, within ten (10) working days of receipt of the written complaint. The Superintendent of HR, or designate, will endeavour to have the investigation completed within thirty (30) working days.

The Board is committed to act on the complainant’s behalf to ensure safety. During the investigation and resolution process, it may be necessary to arrange a temporary reassignment to another work location or a temporary leave of absence with pay pending the outcome of the investigation. In such cases and in any event, the Board will strive to conclude its investigation as quickly as possible recognizing that lengthy leaves of absence should be avoided and the employee should be returned to active duties.

The Superintendent of HR, or designate, will meet with the complainant, and with any witness(es)/persons who have knowledge of the incident(s). As appropriate, the Superintendent of HR, or designate, will contact and meet with the external person who is alleged to have been harassing or discriminating to obtain the facts and their perspective regarding the incident(s).

Should the investigation conclude that harassment or discrimination has occurred, the Superintendent of HR, or the designate, will consult with the applicable Superintendent and/or the Director of Education as to remedial action and to develop and implement a course of action to ensure that the complainant is not subject to continued harassment or discrimination by the external person. Remedial action may include but is not limited to banning the harasser or discriminator from all Board property, ceasing utilization of a vendor or service provider or other sanctions.

Within five (5) working days of the completion of the investigation, the complainant will be advised of the actions taken and the measures that have been put in place and will have the opportunity to discuss any outstanding concerns.

If the employee is not satisfied with the results of the investigation and follow-up steps, recourse may be sought through the Ministry of Labour, the Human Rights Tribunal or if applicable, through a procedure outlined in the employee’s collective agreement, terms of employment or any other applicable employment contract.

Given the possible differing relationships of external respondents an alternate resolution process to the complaint may be pursued that is appropriate to the circumstances.

**Investigation and Resolution Process Summary**

Every effort will be made to comply with the identified timelines, but timelines may be extended for a reasonable period by the Superintendent of HR, or designate. If a timeline change is required both parties will be advised in writing.

Note: Human Resource Services (HRS) refers to: HRS Superintendent or designate.

<b>Process Description</b>	<b>Timelines</b>
1. Complaint/concern submitted to HRS by complainant, manager, union representative, etc.	N/A
2. HRS will review complaint	Within 3 days of receiving complaint
3. HRS will notify if complaint does not constitute harassment	Within 5 days of review
4. HRS will initiate investigation if complaint constitutes harassment	Within 10 days of review
5. HRS will conduct or oversee the investigation	Within 30 days of initiating investigation
6. HRS will notify complainant of investigation results and remedial action	Within 5 days of completion of investigation



## **Notes for Complainant, Respondent and Witnesses**

The WCDSB is committed to a harassment and discrimination free work environment for all employees. Staff are strongly encouraged to come forward with issues regarding workplace harassment or discrimination. Staff voices are important and need to be heard.

Harassment and discrimination-free work environments do not happen by accident. They are created and supported by people who are committed to supporting fair and equitable processes and resolutions and speak out against injustices.

Complainants, respondents and witnesses are encouraged to seek support through the Employee Assistance Program (EAP).

### **Complainant**

As a Catholic community, we recognize that if you are reading this as a complainant it may be a very difficult time for you. We assure you that your safety is of the utmost importance and you will be supported throughout the process. In order for this process to be effective and have a positive outcome, it is critical that you feel safe and have confidence in the people that will be assisting you. If this is not the case, we encourage you to approach the Superintendent of HR, or designate, to assist you in finding alternate sources of support.

There are checks and balances throughout this Policy to ensure safety. You may find that you experience a range of emotions throughout this process. These reactions may range from knowing exactly what you want and need to do, to confusion about what you want and need. Although you may be determined to take action, you may still experience negative emotions. A variety of reactions can be expected and seeking support to deal with your reactions is critical.

### **Respondent**

We, as a Catholic community, recognize that if you are reading this as a respondent regarding a complaint of workplace harassment or discrimination, this may be a very difficult time for you. You may feel confused and angry. The WCDSB recognizes that being accused of workplace harassment or discrimination does not mean automatically imply guilt. It is the intent of the WCDSB to safeguard the rights of everyone involved in a workplace harassment or discrimination complaint. The checks and balances included in this Policy are designed to support and provide fair treatment for both the respondent and the complainant. Throughout this process, your voice as a respondent is important and will be heard.

We want to assure you that you will be supported and treated equitably throughout this process. You are encouraged to enter this procedure with an open mind in order to actively seek an early and just resolution for all involved.

This process is designed to ensure confidentiality, provide for mediation as appropriate and to objectively determine the facts. The goal is always to arrive upon the earliest, mutually acceptable solution for both parties whenever possible.

### **Witness(es)**

We as a Catholic community recognize that if you have been invited into this workplace harassment or discrimination complaint process, this may be a difficult time for you.

In order to provide a harassment and discrimination free environment, it is important for all employees to support one another when there are claims of harassment or discrimination. Although it is often difficult to become involved in another person's complaint process, we encourage you to come forward with an open mind and with the facts, as



you know them. In order to ensure equity, justice and early resolution, it is important that witnesses for both the complainant and the respondent come forward and have their voices heard.

You may fear retribution for coming forward as a witness. The WCDSB is committed to ensuring that there is no retribution for witness(es) providing facts in good faith in an investigation. The identity of a witness will normally remain confidential unless your identity is required by law, by collective agreement, or if you provide a signed consent. You will never be coerced into signing consent.

## **Acknowledgements**

The Board **very much appreciates** the assistance of the following school boards and organizations who so generously shared their Ethical Behaviour and Workplace Harassment Policies.

### **City of Toronto Task Force on Community Access and Equity (1998-1999)**

“Glossary of Access & Equity Terms“

### **Dufferin-Peel Catholic District School Board**

“Sexual Harassment“ General Administrative Procedures.

### **Halton Catholic District School Board**

“Harassment Policy and Complaint Procedure“ Policy 1995

### **Hamilton-Wentworth Catholic District School Board**

“Policy Against Harassment“ 1998

### **London Catholic District School Board**

“Freedom From Harassment Policy“ 2001

### **Niagara Catholic District School Board**

“Employee Workplace Harassment“ Policy No. 201.7

### **Regional Municipality of Waterloo**

“Code of Ethics and Conflict of Interest“ Policy #8, 2003

### **Simcoe Muskoka Catholic District School Board**

“Workplace and Sexual Harassment Policy Procedures For Staff“ 1997, 2001

### **University of Waterloo**

Procedures Document for Policy #36

“Ethical Behaviour“ Policy 33, 1999

### **Waterloo Region District School Board**

“Anti-Discrimination and Anti-Harassment“ Policy 1005, 1998

“Sexual Harassment Guidelines“ Policy 5055 1998

“Administrative Procedures for Dealing with Racial, Religious and Ethnocultural Harassment“ Policy 5045

### **Windsor-Essex Catholic District School Board**

“Workplace Harassment“ Policy H:08