



REPORT TO

GOVERNANCE AND POLICY COMMITTEE

APPENDIX C HARASSMENT AND DISCRIMINATION IN THE WORKPLACE H.M. 14 REPORT.DOCX

Blessed are the peacemakers for they shall be called the sons of God (Matthew 5:9)

Created, Draft	First Tabling	Review
February 9, 2015	February 17, 2015	Click here to enter a date.
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RECOMMENDATION REPORT		

Vision:

At Toronto Catholic we transform the world through witness, faith, innovation and action.

Mission:

The Toronto Catholic District School Board is an inclusive learning community rooted in the love of Christ. We educate students to grow in grace and knowledge and to lead lives of faith, hope and charity.



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A. EXECUTIVE SUMMARY

The Harassment and Discrimination in the Workplace Policy (H.M. 14) and the corresponding Guidelines contained in TCDSB's Respectful Workplace Protocol require updating and revisions to ensure that the Board is in alignment with relevant legislative changes. Also proposed within the scope of the Board's work on H.M. 14 is that the Board's Sexual Harassment policy (H.M. 28) be eliminated given that H.M. 14 is an umbrella policy that covers all the protected grounds of discrimination within the Human Rights Code. The revised Policy and Protocol came before the Governance Committee for the first time in May 2014. At that time staff identified that the next step in development of the policy would be consultation with TCDSB's Federation partners. That consultation has taken place. Further, there was a request by the Governance Committee that a separate process be identified for complaints against the Director of Education and elected officials. With these action items complete, the revised policy and protocol is now being recommended for adoption.

B. PURPOSE

In 2010, amendments to the Occupational Health and Safety Act were made that legislated that all employers have comprehensive policies and programs to address harassment, discrimination and workplace violence. Further, additional protected grounds of discrimination were added to the Human Rights Code in 2013.

Further, amendments are required to delineate the different processes and options available to all TCDSB stakeholders to address harassment and discrimination.

There is no longer a need for a separate policy to address sexual harassment given that H.M. 14- addressing Harassment and Discrimination in the Workplace is an umbrella policy that covers all the protected grounds of discrimination under the Human Rights Code.

At the May 27th, 2014 meeting of the Governance and Policy Committee, the following directions were given:

1. *To move forward with the draft amended policy and guidelines for consultation with our federation partners*
2. *That under Evaluation and matrix, an annual report be submitted to the Student Achievement Committee on the statistics, number of complaints lodged by groups and the status of the complaints.*
3. *That the Director revise the policy and guidelines to distinguish different processes for complaints for elected officials and the Director of Education, non-employees and employees.*
4. *That the Scope and Responsibility be amended to clearly identify the parties involved and their roles as part of the policy.*
5. *That the financial and legal impact be removed from the final version of the policy on a go forward basis.*

C. BACKGROUND

1. In 2007, the Board unanimously approved H.M. 14- Addressing Harassment and Discrimination in the Workplace policy and the guidelines titled, “*The Respectful Workplace.*”
2. Since that time, it became clear that there has been confusion regarding how complaints against non-employees would be addressed through the policy.
3. In 2010, amendments to the Occupational Health and Safety Act were made that legislated that all employers have comprehensive policies and programs to address harassment, discrimination and workplace violence.
4. As well, changes in the Human Rights legislation resulted in additional protected grounds of discrimination that were added to the Human Rights Code and other changes to time limits for filing complaints. These changes need to be reflected in our policy and guidelines.
5. Further amendments are being made to delineate the different processes and options available to all TCDSB stakeholders to address harassment and discrimination. The protocol has been updated to reflect a distinct process for complaints against the director and/or an elected official. In addition, the policy and protocol needs to ensure that all investigations, regardless of the nature of the investigation (i.e., who is involved), remains objective and free from any conflict of interest or imbalance of power.

6. Consultation has occurred with all of the federation partners to ensure full awareness regarding the amendments that have been made to *The Respectful Workplace* document as a result of the changes in legislation.

D. EVIDENCE/RESEARCH/ANALYSIS

1. Several meetings were held with our respective Federation and Association partners within the framework of a collective working table. Federations also requested some additional conversation at the Joint Health and Safety committee tables, and while the board complied, there was no obligation to do so in legislation. This allowed our elementary and secondary administrators, as well as our various employee groups to articulate their suggestions and commentary on the proposed policy and protocol.
2. Upon investigation, the superintendent of Human Resources can suggest mediation or facilitation, so that in effect, the superintendent of Human Resources determines whether there is a mediated complaint resolution or a formal complaint resolution, (per Appendix B, Section 5). The Toronto Secondary Unit did not feel there was ever room for an informal mediated complaint resolution in cases of Harassment, which they deemed to be workplace violence. The board outlined that the Human Rights Tribunal does not equate harassment with workplace violence and further, that in 2013, the Ontario Human Rights Code Policy and Guidelines were revised to reflect the same. As well, the Ontario Human Rights code does indicate that complaint procedures may differentiate between formal and informal processes. The Toronto Secondary unit maintained their position and suggested expanding the size of the conflict resolution department so that all complaints could have a formal process.
3. The volume of human rights tribunal complaints has been large and therefore timelines have become somewhat expanded. Employers do not have a mandate to expand timelines. Within TCDSB, formal investigations are typically brought to resolution within six months. The proposed Guidelines now set a goal of resolution in 70 days. It is at the discretion of the Superintendent of Human Resources as to whether the timeline is extended.
4. The Ministry of Labour further indicates that combined harassment and discrimination policies are acceptable, and further clarify that it is not the

role of the Ministry of Labour to resolve or mediate specific allegations of workplace harassment. Employers are vested with that responsibility.

E. VISION

VISION	PRINCIPLES	GOALS
The TCDSB is committed to ensuring that harassment and discrimination in the workplace will not be tolerated.	Alignment with TCDSB Multi-Year Strategic Plan: <i>Living Our Values</i> <i>Inspired and Motivated Employees</i>	To maintain a workplace that is free of harassment and/or discrimination of any kind for all employees and TCDSB stakeholders.

F. ACTION PLAN

1. The proposed changes in the policy and guidelines are in keeping with legislative changes. The sexual harassment policy is now consolidated into the proposed harassment and Discrimination Policy.
2. Complaints against non-employee TCDSB stakeholders will be directed to the local Administrator and/or Area Superintendent for investigation. Upon investigation, the local administrator or Area Superintendent will refer the matter to the Conflict Resolution Department as appropriate. In turn the Conflict Resolution Department will work in collaboration with the Superintendent of Human Resources to determine the best course of further investigation and resolution.
3. The Conflict Resolution department has two staff members who are trained in investigating and mediating complaints of harassment and discrimination.
4. Timelines and guidelines will ensure accountability and credibility in the process.

5. Further education of all TCDSB stakeholders regarding the policy and guidelines will be explored. The Conflict Resolution department has developed a video podcast that is available through the TCDSB Portal. As well the Conflict Resolution brochure has been made available to all schools in hard and soft copy and a poster was also distributed to all school/board sites.
6. Ongoing training continues to be provided to new staff at new hire orientation sessions. Administrators/Managers are encouraged to in-service staff every two years. The policy is posted on the Occupational Health and Safety Board at each work site. A hard copy of the guidelines are also posted for accessibility reasons.
7. A new process has been incorporated for investigation of allegations against a TCDSB non-employee stakeholder, as well as an additional separate process for the Director of Education and/or elected officials. The policy and guidelines maintain that in all cases, the board must ensure objectivity, must avoid conflicts of interest and must ensure there are not power imbalances.

G. METRICS AND ACCOUNTABILITY

Once approved, there will be an annual report to the Student Achievement committee on the statistics, number of complaints lodged by group and the status of complaints.

H. IMPLEMENTATION, STRATEGIC COMMUNICATIONS AND STAKEHOLDER ENGAGEMENT PLAN

1. Once approved, the revised policy and guidelines will be distributed electronically to all work sites as well as be available on the Board policy register. Hard copies of the policy and guidelines will be posted on the Occupational Health and Safety Board at each work site.

I. STAFF RECOMMENDATION

1. That the Board rescind policy H.M. 28 Sexual Harassment Policy.

2. That the Board approve the revised H.M. 14 Harassment and Discrimination Policy and the Respectful Workplace Guidelines.

APPENDIX C