

# **THE RESPECTFUL WORKPLACE**

***ADDRESSING HARASSMENT  
AND DISCRIMINATION***



# **THE RESPECTFUL WORKPLACE**

## ***ADDRESSING HARASSMENT AND DISCRIMINATION***

### **Policy and Guidelines**



**Angela Gauthier**  
Director of Education

**Michael Del Grande**  
Chair of the Board

## *Appendix B*



### **TORONTO CATHOLIC DISTRICT SCHOOL BOARD TRUSTEES 2014-2015**

#### **Wards**

1.	Joseph Martino	416-512-3401
2.	Ann Andrachuk	416-512-3402
3.	Sal Piccininni	416-512-3403
4.	Patrizia Bottoni	416-512-3404
5.	Maria Rizzo	416-512-3405
6.	Frank D'Amico	416-512-3406
7.	Michael Del Grande, Chair	416-512-3407
8.	Garry Tanuan	416-512-3408
9.	Jo-Ann Davis	416-512-3409
10.	Barbara Poplawski	416-512-3410
11.	Angela Kennedy	416-512-3411
12.	Nancy Crawford, Vice-Chair	416-512-3412
	Christopher MacDonald, Student Trustee	416-512-3417
	Hannah McGroarty, Student Trustee	416-512-3413

**Angela Gauthier**, Director of Education  
**Michael Del Grande**, Chair of the Board

*Revised February 2015*

# Contents

---

<b>MESSAGE FROM THE DIRECTOR OF EDUCATION</b>	<b>i</b>
<b>MESSAGE FROM THE CHAIR OF THE BOARD</b>	<b>ii</b>
<b>ACKNOWLEDGEMENTS</b>	<b>iii</b>
<b>PREFACE</b>	<b>v</b>
<b>1 STATEMENT OF COMMITMENT</b>	<b>7</b>
<b>2 POLICY STATEMENT</b>	<b>8</b>
<b>3 PURPOSE OF THE POLICY</b>	<b>9</b>
<b>4 DEFINITIONS</b>	<b>10</b>
<b>5 RESPONSIBILITIES</b>	<b>13</b>
<b>6 BEGINNING THE PROCESS</b>	<b>18</b>
The Discernment Period	18
Questions and Contacts	18
Reprisal	19
Scope of Application	19
<b>7 MEDIATED COMPLAINT RESOLUTION</b>	<b>21</b>
<b>8 FORMAL COMPLAINT RESOLUTION</b>	<b>23</b>
<b>9 COMPLAINT AGAINST A TCDSB NON-EMPLOYEE</b>	<b>26</b>
Complaint against a Trustee	28
Complaint against the Director	29
<b>10 OTHER CONSIDERATIONS</b>	<b>30</b>
Co-operation of Parties	30
Time Limit for Filing Complaint	30
Time	30
Neutrality of the Investigation	30
Reassignment Pending Investigation	31
Appeal Process	31
Confidentiality	31
Record Keeping	33
Corrective Actions	33
Professional Relationship	34
Frivolous or Vexatious Complaints	34
<b>11 EDUCATION AND TRAINING</b>	<b>35</b>
Bibliography	36
Appendix A: Harassment and Discrimination in the Workplace H.M. 14	38

## **Message from the Director of Education**



## **Message from the Chair of the Board**



# Acknowledgements

The Toronto Catholic District School Board wishes to acknowledge the contributions of the following persons who participated in the development and revisions of this document:



## **Initial Development (Position at time of development)**

<b>Anthony Bellissimo</b>	President, Toronto Elementary Catholic Teachers- OECTA, 2007
<b>Kathleen Gardiner</b>	President, Toronto Secondary Unit, OECTA
<b>Angela Gauthier</b>	Superintendent of Human Resources
<b>David Gorringer</b>	President, CUPE 1280
<b>George Kolos</b>	Vice-President, TSU, OECTA
<b>Kirk Mark</b>	Senior Coordinator of Race & Ethnic Relations Multiculturalism - Curriculum and Accountability Team
<b>Jim Matthews</b>	Corporate Services, Policy Review, Chairperson
<b>John Pecsénye</b>	President, Toronto Elementary Catholic Teachers- OECTA, 2006
<b>Maureen Ryan</b>	President, CUPE 1328
<b>Felix Salazar</b>	President, Toronto Occasional Teachers Local, OECTA
<b>Domenic Servello</b>	President, CUPE 3155
<b>Isolina Varano</b>	Manager of Conflict Resolution, Human Resources
<b>Glenn Webster</b>	President, Association of Professional Student Services Personnel

Thanks to **Anapaula DaCosta**, graphic artist, for document preparation.

**Consultation Review Members (extended committee  
list)**

<b>Rory McGuckin</b>	Superintendent of Education Human Resources & Labour Relations
<b>Loretta Notten</b>	Superintendent of Governance, Policy and Strategic Planning
<b>Suzy Kawasaki</b>	Supervisor of Conflict Resolution, Human Resources
<b>Isolina Varano</b>	Coordinator of Conflict Resolution, Human Resources
<b>Domenic Servello</b>	President, CUPE 3155
<b>Lina Naccarato</b>	President, CUPE 1328
<b>Felix Salazar</b>	President, Toronto Occasional Teachers Local, OECTA
<b>Julian Farinha</b>	President, CUPE 1280
<b>Julie Mazzuca-Peter</b>	President, Association of Professional Student Services Personnel
<b>David Szollosy</b>	President, Toronto Secondary Unit, OECTA
<b>Mario Bernardo</b>	President, Toronto Elementary Catholic Teachers Unit, OECTA
<b>Marguerite Thomson</b>	President, Toronto Catholic Elementary Schools Principals/Vice Principals Association
<b>Marty Farrell</b>	Representative, Management, Administrative, Professional Association







## Preface

---



The harassment and discrimination policy of the Toronto Catholic District School Board is deeply rooted in Catholic teaching. It affirms the Catholic claim which states that all persons are created in the image of God and therefore have an intrinsic worth that transcends social structures. A person's dignity forms the basis of the claim for inherent rights in both the political and economic spheres.

Too often, this insistence on human dignity as the basis for social interaction is denied to people. This is especially the case in relation to women. As John-Paul II states in *Familiaris Consortio*:

Unfortunately the Christian message about the dignity of women is contradicted by that persistent mentality which considers the human being not as a person but as a thing, as an object of trade, at the service of selfish interest and mere pleasure: the first victims of this mentality are women.

This mentality produces very bitter fruits, such as the contempt for men and for women, slavery, oppression of the weak, pornography, prostitution - especially in an organized form - and all those various forms of discrimination that exist in the fields of education, employment, wages, etc.

The principle of the human person as the *Imago Dei* is also at the heart of John-Paul's theology of work. Because God is active in creation, work serves as a means for the human person to live out that image by working with creation. To that end, the dignity of human work can only be achieved when the dignity of the human person is affirmed and considered essential to the social operation of the work place. As John-Paul states in the encyclical *Laborem Exercens*:

...the whole labour process must be organized and adapted in such a way as to respect the requirements of the person and his or her forms of life... It is a fact that in many societies women work in nearly every sector of life. But it is fitting that they should be able to fulfil their tasks in accordance with their nature, without being discriminated against and without being excluded from jobs for which they are capable... within the sphere of these principal rights, there develops a whole system of particular rights which, together with remuneration for work, determine the correct relationship between worker and employer. Among these rights there should never be overlooked the right to a working environment ... which is not harmful to the workers' physical health or to their moral integrity.

For these reasons, the TCDSB harassment and discrimination policy is committed to providing a work environment where women, men, and children can live in decency and dignity without fear of being exploited or harmed. In doing so, the policy affirms the Church's teachings that all God's children share a common dignity and deserve to be treated with the respect and consideration worthy of followers of Christ.

## Statement of Commitment

---

The inherent right of all individuals to be treated with dignity and respect is central to Catholic values and Christian beliefs. The Toronto Catholic District School Board, hereinafter known as the “Board”, is a Catholic educational community and is therefore committed to the creation of a working and teaching environment which fosters mutual respect for the dignity and well-being of all employees.

Harassment is contrary to Catholic values and undermines the Board’s mission of an inclusive learning community rooted in the love of Christ where students are educated to grow in grace and knowledge and to lead lives of faith, hope and charity.

Harassment poisons the work environment for employees. It negatively affects morale, motivation and job performance. It results in increased absenteeism, turnover, inefficiency and loss of productivity.

The Board is committed to providing a workplace that promotes professionalism and ethical behaviour consistent with its Code of Conduct. It therefore, requires all persons to exercise behaviour that facilitates the creation of a working environment that is conducive to the achievement of excellence and the development of one’s potential. Harassment constitutes behaviour which undermines the maintenance of a professional workplace.

Harassment and discrimination as defined in the Harassment and Discrimination in the Workplace policy will not be tolerated by the Board. In keeping with its values and legal responsibilities as an employer, the Board will treat any complaint of harassment and discrimination as a serious matter.

## Policy Statement

---



The Toronto Catholic District School Board recognizes that all people are created in the image and likeness of God and, as such, deserve to be treated with dignity, respect and fairness.

The Toronto Catholic District School Board is committed to providing a safe and welcoming environment that is an example of Christian Community. Every member of this community - student, parent/guardian, employee, contracted service provider, trustee, parish priest or others while on Board property and at Board sponsored events shares in the responsibility for creating an environment that is safe and respectful.

In keeping with these beliefs, it is the policy of the Board that every employee, contracted employee, volunteer and trustee has the right of freedom from harassment and discrimination in the workplace.

The Toronto Catholic District School Board recognizes that its school system, consistent with the protection afforded in the Constitution Act 1867 and confirmed in the Canadian Charter of Rights and Freedoms, gives pre-eminence to the tenets of Roman Catholicism. Subsection 19 (1) of the Ontario Human Rights Code provides that *“This Act shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the Constitution Act, 1867 and the Education Act”*. The Board does not relinquish these rights.

## Purpose of the Policy

---

# 3

The purpose of the Harassment and Discrimination in the Workplace Policy, hereinafter known as the “Policy”, is to create and maintain a work environment that is free from harassment. The Policy is a clear statement of the Board’s commitment to maintaining Catholic values in its workplace and its determination to act promptly to address any incident of harassment and to create an environment where harassment will not be tolerated.

The objectives of the Policy are to:

- Demonstrate and promote the commitment of the Board to protecting the dignity and rights of its employees and members of the TCDSB community
- Alert and educate employees, volunteers and elected officials of the Board to the fact that harassment is prohibited under the laws of the Province of Ontario as well as being contrary to Catholic values
- Establish measures to prevent and/or stop harassment by and against its employees, volunteers and elected officials
- Take immediate action and provide confidential, impartial and effective procedures to resolve complaints in ways that respect the rights of all parties
- Provide appropriate remedies to complainants in recognition of the impact of harassment
- Identify various roles and responsibilities for the maintenance of a harassment-free workplace
- Provide appropriate responses and consequences in situations where harassment has occurred

### ■ THE LEGAL DEFINITION AND RIGHTS - HARASSMENT

The *Ontario Human Rights Code* and the *Occupational Health and Safety Act* establish an employee's right to freedom from harassment in the workplace and an employer's corresponding obligation to provide a workplace that is free from harassment.

The term "harassment" means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome

These rights and responsibilities are covered in the following sections of the *Occupational Health and Safety Act* and the *Ontario Human Rights Code*:

**Subsection 1 (1) of the Occupational Health and Safety Act defines workplace harassment 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.*

**Section 5 (1) of the Ontario Human Rights Code states that:**

*Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, disability, gender identity or gender expression.*

**And:**

**Section 5(2)**

*Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status, disability, gender identity and gender expression.*

**And:**

## Section 7 (2)

*Every person who is an employee has a right to freedom from harassment in the workplace because of sex by his or her employer or agent of the employer or by another employee.*

### ■ TCDSB POLICY DEFINITION – HARASSMENT

Harassment is any vexatious behaviour that threatens, intimidates, demeans, humiliates, or embarrasses a person or a group, and that a reasonable person should have known would be unwelcome. It includes actions, comments, or displays. It normally involves a course of conduct but a single act of a serious nature may constitute harassment.


#### **SEXUAL HARASSMENT**

Sexual harassment refers to deliberate, unsolicited, unwelcome and personally offensive behaviour, comments, gestures or physical conduct of a sexual nature that creates discomfort, interferes with work effectiveness, invades the privacy or threatens the safety, livelihood or status of an individual.

#### **HOW POWER IMBALANCES CAN CONTRIBUTE TO HARASSMENT**

The fact that a person does not explicitly object to harassing behaviour does not mean that the behaviour is not harassing or is being assented to. Wherever possible, the Board encourages individuals to be explicit about actions or behaviours that are unwanted and to request that such actions or behaviours cease and desist. However, the Board recognizes that it may not always be possible or advisable to directly confront offenders in cases of serious violations or where there are significant power imbalances in the working relationship.

However, it is important to note that the exercise of supervisory responsibilities, including training, performance appraisal, direction, instruction, counselling and discipline does not constitute harassment as long as these are not being exercised in a discriminatory or intimidating manner. Personality clashes and/or interpersonal conflict do not, in and of themselves, constitute harassment. This policy is not intended to address concerns that individuals may have regarding



leadership, communication style, or overall performance of Board employees/teaching staff/administrators. ~~The policy is not~~ cannot be used as a ~~substitute~~ recourse for dealing with a performance appraisal, and the complaints procedures outlined herein should not be invoked for these purposes. The complaint procedures are intended to address workplace harassment and discrimination only.

While a ~~A~~ healthy work and learning environment can include appropriate humour. ~~However,~~ care must be taken to ensure that the use of humour is not offensive, degrading, discriminatory, or otherwise a violation of this policy or the *Code*.

## ■ THE DEFINITION OF DISCRIMINATION

Unfair treatment because of race, sex, colour, ancestry, place of origin, ethnic origin, marital status, sexual orientation, age, disability, citizenship, family status, record of offences, religion (creed), gender identity, and gender expression.

Subsection 19 (1) of the Ontario Human Rights Code provides that *“This Act shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the Constitution Act, 1867 and the Education Act”*.

## ■ THE DEFINITION OF WORKPLACE

The workplace is any place where employees, contract employees, volunteers and trustees and other users perform work or work-related duties or functions. Schools and school-related activities, such as extracurricular activities and excursions, comprise the workplace, as do Board offices and facilities. Conferences and training sessions are included within this policy.



## ■ OTHER DEFINITIONS:

### Complainant

The complainant is the person who believes they were harassed or discriminated against.

### Respondent

The respondent is the person who is alleged to have engaged in harassment or discrimination.

### Mediated Complaint Resolution

An informal process whereby the complainant seeks advice or assistance to address the problem with the respondent. The process attempts to resolve the alleged harassment at the lowest level. There are no formal written records or finding (decision).

### Formal Complaint Resolution

A process which is initiated by a written complaint by the claimant to the Superintendent of Human Resources. It requires official investigation of the complaint within a formalized framework. A finding (decision) will normally result, documentation will be in official files and disciplinary action may result.

## Responsibilities

---

## ■ A SHARED RESPONSIBILITY

While employees share responsibility for understanding and preventing harassment and discrimination in the workplace, it is important to recognize that, under law, administrators carry more responsibility than other employees.

Boards of inquiry convened under the *Human Rights Code* have held that those who have the authority to prevent the continuation or repetition of harassment may be accountable for failing to exercise their ability to do so. This accountability extends to anyone in a

management or supervisory position. The Board is responsible for responding to complaints of harassment and discrimination regardless of the relationship between the people involved.

### **Trustees**


It is the role of the Board of Trustees to ensure compliance with the Policy through the following measures:

- Provide the Director of Education with the necessary resources to implement the Policy
- Consider the advice of the Director of Education on future development and improvement of this Policy and encourage the development of parallel policies that will enhance the workplace and subsequently improve the provision of a Catholic education within the community

### **Director of Education**

The responsibility of the Director of Education is to ensure compliance with the Policy as follows:

- Be a role model and showing respect for the dignity of others by speaking out against harassment and discrimination when it is encountered
- Develop and implement policies and procedures that discourage employment-related harassment and discrimination

- 
- ensure that all employees are provided with information about the nature of harassment and discrimination and are informed about the Policy, their rights and responsibilities
  - ensure that the appropriate staff facilitate the implementation of this Policy by providing the training and resources for personnel to fulfil their responsibilities under this Policy
  - ensure that corrective measures are taken and disciplinary measures are imposed quickly and without undue delay when a complaint is substantiated, regardless of the seniority of the offender
  - ensure that it is formally acknowledged in writing to a person who has been found to have been harassed that harassment has taken place
  - monitor the implementation of the Policy to ensure that procedures adequately meet Policy objectives and that all complaints are being treated seriously

### **Superintendent of Human Resources**

The role of the Superintendent of Human Resources/Designate is to:

- investigate every formal written complaint of harassment and discrimination
- carry out the steps as stated within the formal investigation process
- document and maintain a confidential record of formal complaints
- be responsible for the security and confidentiality of complaint files after a complaint is discontinued or resolved
- appoint persons who are themselves employees of the Board to serve as facilitator(s) under this Policy.
- arrange for the facilitator(s) to receive appropriate initial and continuing training as well as other institutional support and assistance for carrying out their responsibilities under this Policy.



## **Supervisory Personnel**

**Associate** Directors, supervisory officers, principals, administrative department heads and other supervisors are responsible for:

- being a role model and showing respect for the dignity of others by speaking out against harassment and discrimination when it is encountered
- making every reasonable effort to provide an environment which is free of harassment and discrimination
- approaching employees with concerns about inappropriate behaviour and advising them that it must stop
- receiving and handling complaints with the support of the Conflict Resolution Manager
- assisting in resolution at an mediated level when requested by either one or both parties
- conducting preliminary fact finding
- protecting the complainant or participants in investigations against reprisals in the workplace

## **Conflict Resolution Personnel or assigned personnel**

The Conflict Resolution department has dual responsibilities both as advisors and as facilitators. The role of the advisor is to:

- provide information and advice on the application and scope of the Policy to all employees
- provide advice and support to persons who are subjected to harassment and discrimination
- provide information on ways to resolve a harassment and discrimination complaint
- advise complainants and respondents of rights under this Policy and the availability of counselling and other support services
- facilitate the training of personnel involved in implementing the Policy
- monitor the operation of the Policy and recommend improvements to the Board
- conduct investigations if when designated by the Superintendent of Education, Human Resources



## **Facilitator(s)**

A facilitator is a professionally trained individual appointed within the Board to work with the parties to establish an agenda, suggest and enforce ground rules, keep the discussion on track, and offer suggestions on how the parties may achieve their objectives. Facilitator(s), including staff from the Conflict Resolution Department, when acting in that capacity, will advise the parties of:

- the right to undertake the mediated resolution procedure and/or the right to lay a formal written complaint under this Policy
- availability of counselling or other support services provided by the Board or Professional Association or Union
- the right to be accompanied by a Professional Association or Union and/or bargaining unit representative at any stage of the process where the complainant is required or entitled to be present
- the right to withdraw a complaint, should the complainant no longer wish to proceed with further action. However, should the Board have any information that suggests harassment and discrimination is occurring, it has a legal responsibility to proceed with the investigation

## **Employees, Contracted Employees, and Volunteers**

Employees who feel that they are victims of harassment and discrimination have a right under this Policy to report their concerns to their supervisor or other appropriate contact.

Employees who witness harassment and discrimination have a moral responsibility to uphold the Policy and are encouraged to report.

Any employee found to have engaged in any type of harassment will be subject to disciplinary action up to and including dismissal.

### **HARASSMENT – THE DISCERNMENT PERIOD**

When an individual is considering whether they have been subjected to harassment, they need to ask:

Was the behaviour unwelcome?

Was the behaviour personally threatening, intimidating, demeaning, humiliating or embarrassing?

Was it deliberate?

Has the behaviour created a negative work environment for you?

Has it been a course of behaviour over time?

Have you let the individual know the behaviour is unwelcome?

Examples of harassment include, but are not limited, to:

- verbal comments such as name calling; insults; threats; slurs; crude, degrading or suggestive remarks; offensive songs or recordings, demeaning racial or ethnic remarks and jokes or innuendoes;
- communication by means of written or graphic materials, unwanted notes, letters, e-mails, **social media comments, or text messages**, for example the display of racist, derogatory or offensive pictures, graffiti or other materials;
- use of stereotypical images or language, for example jokes and anecdotes, which suggest that all or most employees of a particular identity are the same;
- differential treatment, and the avoidance or exclusion of any group or individual, for example the refusal to converse or work with an employee because of his/her racial or ethnic background;
- any activity or behaviour, not necessarily directed at anyone in particular that creates a hostile or offensive workplace;
- abuse of authority such as acts or misuse of power as intimidation, threats, blackmail or coercion.

## QUESTIONS AND CONTACTS

If you have questions and need advice contact any of the following:

- Your immediate supervisor, Principal , Superintendent, or
- The Conflict Resolution Department at 416-222-8282, ext. 2363, or 2771.
- Your professional Association or Union representative:

OECA – TORONTO SECONDARY UNIT – 416-633-5502

OECA - TORONTO ELEMENTARY CATHOLIC TEACHERS – 416-398-6838

OECA – TORONTO OCCASIONAL TEACHERS – 416-636-5644

CUPE – 1328 – 416-512-9493

CUPE – 1280 – 416-989-5035

CUPE - 3155 – 416-393-5309

ASSOCIATION OF PROFESSIONAL STUDENT SERVICES PERSONNEL – 416-222-8282 ext. 6471

All enquiries will be confidential.

## REPRISAL

For purposes of this Policy, any reprisal or threat of reprisal against an individual who:

- a) has invoked this Policy or
- b) has participated or cooperated in any investigation under this Policy, or
- c) has been associated with a person who has invoked this Policy or participated in these procedures

No form of reprisal, whether actual or threatened, against a person who initiates or contemplates initiating a complaint of harassment or discrimination or a witness that cooperates in a formal investigation will be tolerated by the Board. This is subject to the section on Frivolous or Vexatious Complaints.



## ■ SCOPE OF APPLICATION

### A. Workplace

The Policy will be enforced where activities related to the business of the Board take place. These include:

- activities within offices, staff rooms, classrooms, cafeterias/lunch rooms and other Board property
- events associated with and including co-instructional and extra-curricular activities
- situations outside of Board operated premises e.g. field trips, external work assignments, work-related conferences, training sessions, travel or social gatherings
- activities in other locations where harassment may have a subsequent impact on the work relationship, performance or environment.

### B. Individuals

All persons working for the Board or carrying out Board business are covered by the Policy. These include teaching and non-teaching staff who are temporary, part-time and full-time employees. The Policy also applies to elected officials, members of boards and committees and registered volunteers.





## Mediated Complaint Resolution

---

All complaints will be treated seriously. There are two internal processes **that may be pursued**— mediated and formal. The individual may use either process or both.

In the mediated process, each employee retains the right to decide how to respond to harassment, including either verbal or written communication with the respondent, in order to resolve the situation. **As** a complainant, **you** may contact a superordinate/field superintendent/appropriate supervisory officer, union/association representative and/or the Conflict Resolution **Department** to discuss the situation and how it might be resolved. At this stage, since only advice is being sought, names need not be disclosed. All such enquiries to a third party will be treated as confidential and the complainant is under no obligation to file a formal complaint.

The complainant may choose to go directly to the formal process or utilize both the mediated and formal stages.

1. As soon as possible, the complainant is advised to make a record of the details surrounding the incident(s) including times, dates, places, names of witnesses, if any, and circumstances surrounding the incident(s).
2. The complainant may wish to speak directly to the person involved in the alleged harassment.

The complainant may choose to do this alone or in the presence of another Board employee, facilitator, **staff from the Conflict Resolution Department**, Professional Association or Union or bargaining unit representative. If the complainant chooses to speak to the person, it would be helpful to make a note of the conversation that took place. The complainant should tell the person calmly but firmly that the behaviour is unwelcome and must stop. This is often an effective way to end the harassment. For example, the complainant may wish to say “when I am called ‘\_\_\_\_\_’ (statement of fact), I feel belittled and insulted (impact statement). Please refer to me by my name (needs, wants, preferences)”.



3. The complainant may wish to advise the person by **written communication (e-mail or letter)**. If one chooses this option, it is advisable to keep a copy of the letter and proof that it was received, such as a courier or a registered mail receipt. In order to protect confidentiality, the use of e-mail is not advised.

*Some Helpful Hints in Writing a Letter or **E-mail**:*

- be brief
  - be factual and clear
  - give dates, time and location
  - describe the specific incident
  - state the impact on you (i.e. how it made you feel)
  - state what you would like to have happen
  - sign your letter
4. If the complainant is not satisfied with the results of the initial contact with the respondent or if the harassment continues, the complainant may wish to contact the Conflict Resolution **Department** to request the presence of a facilitator. A facilitator is a neutral third party who assists with the discussions so that the parties may focus on the substantive issues and work toward achieving a satisfactory resolution.
  5. The complainant may wish to consider counselling to help deal with the psychological and emotional impact of these events. Suggestions for counsellors can be obtained from the Conflict Resolution **Department** or a Professional Association or Union/bargaining unit representative.
  6. No formal written records are completed at this stage for inclusion in an official file although both parties and any third party should keep personal documentation of the meetings.
  7. If the harassment incident is not resolved at the mediated stage, the complainant may choose to initiate the next option - the Formal Complaint Resolution process.

## Formal Complaint Resolution

# 8

1. ***If the complaint is against an employee or registered volunteer of the Board,*** the complainant will submit a written complaint to the Superintendent of Human Resources/Designate, with a copy to the appropriate supervisory officer.


A signed written complaint shall include:

Identification of the individual(s) involved and a clear description of the incident(s) of harassment and discrimination including times, dates, places and names of witnesses, if any.

Assistance with the writing of the complaint may be obtained from any supervisor/superintendent one feels comfortable with, the staff from the Conflict Resolution Department, or a representative from a Professional Association or Union ~~or union~~.

If, upon receiving a complaint, the Superintendent of Education, Human Resources or his/her designate determines that the conduct complained of (even if it occurred) does not fall within the definition of harassment or discrimination, the procedures outlined in this policy do not apply. In that case, no investigation under this policy will ensue. Depending on the circumstances, the concerns may be addressed and/or investigated under another Board policy, alternative dispute resolution process, or through the grievance process (if applicable).

2. The Superintendent of Human Resources/Designate will confirm in writing to the complainant, receipt of the complaint within seven (7) working days.
3. The Superintendent of Human Resources/Designate will forward a copy of the complaint to the respondent within seven (7) working days of receipt of the complaint.\*
4. The **fact-finding** investigation process shall begin within ten (10) working days but no later than 15 working days of the request to the Superintendent of Human Resources unless circumstances dictate otherwise. The Superintendent of Human Resources may conduct the investigation directly, or may assign




a Designate(s) to act in this role. In order to ensure objectivity, the designation of investigators will be determined by the needs of the complaint, and may include the use of trained Board personnel such as staff from the Conflict Resolution Department, Administrators (in the cases involving parental harassment) and/or external consultants. The goal in determining who should investigate the complaint will be to ensure full objectivity, freedom from conflict of interest and an absence of a power imbalance. The investigation shall conclude within seventy (70) working days from the commencement of the investigation unless circumstances dictate otherwise.

5.

The Superintendent of Human Resources/Designate will discuss the complaint separately with the two parties, and may consult with others who are in a position to provide relevant information. Both parties may recommend relevant witnesses.\* Both parties and all witnesses have the right to union representation during these and any other discussions during this process. Witness participation is voluntary. The Board cannot compel witnesses to participate in this process.

6. With Respect to Teachers re: 18 (1) (b) Regulation made under the Teaching Profession Act. A member shall..... on making an adverse report on another member, furnish him (her) with a written statement of the report at the earliest possible time and not later than three days after making the report.\*Teaching Profession Act . Despite any regulation made under subsection (1), a member who makes an adverse report about another member respecting suspected sexual abuse of a student by that other member need not provide him or her with a copy of the report or with any information about the teacher.

Following the interviews, documentation will be prepared by the Superintendent of Human Resources/Designate, or the external consultant, if one has been assigned, based on the information provided during the interviews. Both parties will be given a copy of a summary report and will



have the opportunity to respond to the findings within ten (10) working days of receipt of the report.

7. Upon receipt of the investigator's report, the Superintendent of Human Resources/Designate will meet separately or together with the relevant parties to resolve the complaint. If the incident is resolved at this stage, no further action will be taken.
8. In the event a complainant or respondent to a formal complaint has one or both of the specific concerns set out below, within ten (10) days of receipt of the decision, a request may be made by either the complainant or the respondent to the Director of Education to review the decision.

The grounds for review are:

- the investigators did not comply with the procedures set out in this Policy; or
  - new evidence has become known after the decision but before the expiry of the ten (10) working days limitation period for requesting a review.
9. No review of the decision will be undertaken with regard to the claim that the conclusions drawn by the investigator(s) based on findings of fact were incorrect.
  10. A review will affirm or amend a decision or require that a new investigation be undertaken
  11. The complainant, at any stage, may choose to withdraw the complaint. The Board, however, may still be obliged to investigate.
  12. The provisions of this Policy do not take away an employee's right to take action outside of its provisions. For example, using any of the internal options does not mean one cannot exercise other rights such as filing a complaint directly to the Ministry of Labour or the Ontario Human Rights Tribunal.

## Complaint Against A TCDSB Non-Employee Stakeholder

*If the complaint is against another member of the TCDSB community other than an employee, (e.g. parent or student) the complainant will submit a written complaint to the School Administrator/Supervisor with a copy to the appropriate Supervisory Officer.*

1. The School Administrator/Manager may conduct the investigation directly or may assign a Designate to act in this role.

The School Administrator/Manager may consult with the Conflict Resolution Department for advice on conducting the investigation or exploring other dispute resolution options.

2. The fact-finding investigation process shall begin within ten (10) working days but no later than fifteen (15) working days unless circumstances dictate otherwise. The investigation shall conclude within thirty (30) working days from the commencement of the investigation unless circumstances dictate otherwise. If necessary, the School Administrator/Manager will put safety measures in place until the investigation process is completed.

3. The School Administrator/Manager will discuss the complaint separately with the two parties, and may consult with others who are in a position to provide relevant information. Both parties may recommend relevant witnesses. Employees involved in this process including all witnesses have the right to union representation during these and any other discussions during this process.

Witness participation is voluntary. The Board cannot compel witnesses to participate in this process.

4. Once the investigation is completed, the School Administrator/ Manager will meet separately or together with the relevant parties to review the outcome of the investigation and attempt to resolve the complaint. No written report shall be provided. If the incident is resolved at this stage, no further action will be taken.

If the complaint is not resolved at this stage, recommendations may be considered to remedy the situation including alternate forms of dispute resolution.

5. In the event a complainant has one or both of the specific concerns set out below, within ten (10) working days of receipt of the decision, a request may be made by either the complainant or the respondent to the area Supervisory Officer to review the decision.

6. The grounds for review are:

- the School Administrator / Supervisor and or Designate did not comply with the procedures set out in this Policy; or
- new evidence has become known after the decision but before the expiry of the ten (10) working days limitation period for requesting a review.

7. No review of the decision will be undertaken with regard to the claim that the conclusions drawn by the School Administrator / Supervisor and or Designate(s) based on findings of fact were incorrect.

A review will affirm or amend a decision or require that a new investigation be undertaken.

8. The complainant, at any stage, may choose to withdraw the complaint. The Board, however, may still be obliged to investigate.

## **Complaint Against A Trustee**

*If the complaint is against a Trustee*, the complainant will submit a written complaint to the Director of Education.

1. The Director of Education will review the complaint and may make recommendations to the complainant and/or the Trustee to resolve the complaint.
2. The Director of Education will investigate the matter within ten (10) working days of receiving the complaint unless, in the judgment of the Director of Education, circumstances indicate a different timeline is advisable.
3. Both parties may recommend witnesses who have knowledge of the matter to the Director of Education. A witness who is a member of a trade union or professional association shall have the right to representation by their union or professional association during this process.
4. The Director of Education will discuss the complaint with both parties, either separately or together, and may consult with others who may have relevant information.
5. In the event that the complainant or the Trustee is not satisfied with the proposed resolution of the complaint, the Director of Education will report the matter to the Board of Trustees in private session.
6. The provisions of this policy do not preclude either party from legally available dispute resolution proceedings.



## **Complaint Against The Director of Education**

*If the complaint is against the Director of Education*, the complainant will submit a written complaint to the Chair of the Board of Trustees.

1. The Chair of the Board of Trustees will review the complaint and may make recommendations to the complainant and/or the Director of Education to resolve the complaint.
2. The Chair of the Board of Trustees will investigate the matter within ten (10) working days of receiving the complaint unless, in the judgment of the Chair of the Board of Trustees, circumstances indicate a different timeline is advisable.
3. Both parties may recommend witnesses who have knowledge of the matter to the Chair of the Board of Trustees. A witness who is a member of a trade union or professional association shall have the right to representation by their union or professional association during this process.
4. The Chair of the Board of Trustees will discuss the complaint with both parties, either separately or together, and may consult with others who may have relevant information.
5. In the event that the complainant or the Director of Education is not satisfied with the proposed resolution of the complaint, the Chair of the Board of Trustees will report the matter to the Board of Trustees in private session.
6. The provisions of this policy do not preclude either party from legally available dispute resolution proceedings.

## Other Considerations

---

### ■ CO-OPERATION OF PARTIES

It is fully expected that all parties, including the complainant, the person complained against and/or relevant witnesses, will fully cooperate in the Board's investigation of a complaint of harassment. However, if one or more parties fail or refuse to cooperate, the investigation may proceed utilizing the evidence and information available.

### ■ TIME LIMIT FOR FILING COMPLAINT

Any complaint must be filed within a reasonable time following the occurrence of the event. The Board adopts the six month time frame for reporting a complaint and in its discretion, may decide not to deal with the complaint when the facts upon which the complaint is based occurred more than six months before the complaint was filed.

### ■ TIME

The time limits set out in the Board's Policy can be extended if, upon the determination of the Board, there is an appropriate reason for doing so or if both parties agree.

### ■ NEUTRALITY OF THE INVESTIGATION

All those who are part of the investigation team must ensure an impartial and effective resolution of complaints.

The Board may select an external consultant to assist with an investigation, if this would best serve the investigation and the resolution of the complaint.

## ■ REASSIGNMENT INTERIM MEASURES PENDING INVESTIGATION

Where a formal complaint has been filed, depending on the circumstances of each case, interim measures may be implemented including but not limited to relocating either the complainant and/or respondent ~~may be assigned~~ to another location while the investigation is being conducted. Such action will be considered on a case-by-case basis to protect the interests of relevant parties.

## ■ APPEAL PROCESS

If the complainant or respondent is dissatisfied with the resolution, either individual may file a formal complaint with the Ontario Human Rights Tribunal of Ontario or the Ministry of Labour. ~~Commission, or drop the complaint and no further action will occur.~~

## ■ CONFIDENTIALITY

The Board understands that it is difficult to come forward with a complaint of harassment and discrimination and recognizes a complainant's and respondent's interest in keeping the matter confidential including not revealing the identities of relevant witnesses cooperating in formal investigations.

To protect the interests of those involved ~~the complainant, the person complained against, and any others who may report incidents of harassment,~~ confidentiality will be maintained throughout the process to the fullest extent practicable and appropriate under the circumstances. Within the work environment of both parties, it is important that all involved work to ensure that individual privacy and confidentiality are respected. Any breach of confidentiality is may be subject to appropriate disciplinary action.

All relevant documents and records regarding harassment and discrimination allegations will not be accessible to any Board staff other than the appropriate superintendent of education, the investigators, the Board lawyer Counsel and the Director of Education. **However, records may be subject to release under the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*. A complaint under the *Human Rights Code*, or legal proceedings may require disclosure of any information collected.**

If warranted, meetings and interviews may take place at a neutral site rather than at the school or Board offices.



## ■ RECORD KEEPING

The Superintendent of Human Resources will be the custodian of the records and documents, and, as such, will ensure confidentiality of all materials. These files may include the names of complainants and respondents, the nature of the alleged harassment, correspondence between parties, meetings, including dates and names of attendees, information regarding the investigation process and disposition of the complaint. If the complaint is upheld, the Board shall take appropriate disciplinary action, including a letter of reprimand or letter of termination to be retained in the personnel file of the respondent. If the complaint is upheld, a letter to the complainant indicating that corrective action has been taken, will be held in the harassment file of the Superintendent of Human Resources. In order for monitoring to occur in cases where a complaint has been upheld, a summary of the allegations and recommendations may be forwarded to the appropriate supervisor.

If the complaint is not upheld, a letter will be sent to the parties notifying them of such. In general, the letters to the complainant and the respondent will be kept in the file of the Superintendent of Human Resources. The Board, however, reserves the right to include the letters in the respective personnel files of the complainant or respondent. If no further complaint against the respondent is received within seven (7) years, subject to any provisions in appropriate collective agreements, the contents of the investigating file will be destroyed.

## ■ CORRECTIVE ACTIONS

### Respondent

Where it is concluded that a complaint has been substantiated, the seriousness of the occurrence will determine the Board's disciplinary response.

Responses may include but not be limited to:

- i. a written reprimand delivered to the respondent with a copy to the respondent's personnel file
- ii. transfer
- iii. withholding of a promotion
- iv. demotion
- v. suspension with or without pay
- vi. dismissal
- vii. report to the Ontario College of Teachers, or other professional colleges



In addition to disciplinary responses, other responses may include but not be limited to:

- i. counselling for the parties
- ii. specific training for the respondent
- iii. an appropriate workshop or course

*In circumstances where a complaint has been substantiated, the onus is on the Board to consider first and foremost the impact on the complainant.*

Thus, where a complaint has been substantiated and the complainant does not feel comfortable in the same school or work environment as the respondent, the Board may, among other responses, transfer the respondent to another school or work location.

The complainant will be informed that corrective action has been taken and asked to report any further incidents of harassment or reprisal. In order to prevent a recurrence of harassment, the respondent's professional conduct will be monitored by the appropriate supervisor.

## ■ PROFESSIONAL RELATIONSHIP

Whether the complaint has or has not been substantiated, the parties may wish to discuss the continuance of their professional relationship. In these circumstances, the Superintendent of Human Resources/Designate may appoint a mediator/facilitator to meet with the relevant parties either together or individually to discuss their future work relationship.

## ■ FRIVOLOUS OR VEXATIOUS COMPLAINTS

The Board does not condone frivolous or vexatious complaints. If it is determined as a result of an investigation that a complaint was made maliciously with intent to harm or made in bad faith, formal disciplinary action will be taken against the complainant, including, but not limited to, a letter of reprimand, report to the Ontario College of Teachers or other professional colleges, suspension or possible termination of employment.

Such disciplinary action will be placed in the employee's personnel file. The complainant has the right to receive written notification of this conclusion including reasons and grounds, to respond to it and be represented at all subsequent proceedings.

# Education and Training

---

# 11

The Conflict Resolution Department **has developed** mechanisms to ensure that all employees, volunteers and elected officials of the Board are informed of the existence of the Harassment and Discrimination Policy and Guidelines and its provisions by:

- Distributing pertinent information to all employees in pamphlet form
- Providing direct or indirect inservicing to employees
- Ensuring the Policy and the manual, The Respectful Workplace, Addressing Harassment and Discrimination, are available at **all** worksites and on the Board's website.

## Education and Training

All Board employees ~~will~~ shall be in-serviced on the Harassment and Discrimination Policy and ~~Guidelines following approval by the Board of Trustees.~~ New ~~personnel~~ staff members shall ~~will~~ be informed of the Harassment Policy and Guidelines during the orientation process.

Special training will be provided for those persons involved in the implementation of the Policy to help them develop knowledge and skills in the following areas:

- terms of the Harassment and Discrimination Policy
- human rights and other relevant legislation
- how to recognize harassment
- how to handle complaints with sensitivity and empathy
- **how to advise and prepare an employee who wishes to confront an alleged harasser and how to recognize situations where this may be inappropriate**
- how to intervene if one recognizes that harassment is occurring
- investigation techniques



## ■ BIBLIOGRAPHY

### *Papal Teachings*

The following papal teachings address the question of the dignity of the human person, especially the degree to which that dignity is denied or affirmed in the workplace and were included in the development of the Sexual Harassment Policy and Guidelines:

- |               |  |
|---------------|--|
| Leo XIII,     | <u>Rerum novarum (On the Condition of Labour)</u> , papal encyclical, Rome, 1881.  |
| Pius XI,      | <u>Quadragesimo anno (Reconstruction of the Social Order)</u> , papal encyclical, Rome, 1931.  |
| John XXIII,   | <u>Pacem in terris (Peace on Earth)</u> , papal encyclical, Rome, 11 April, 1963.  |
| Vatican II,   | <u>Gaudium et spes (The Pastoral Constitution of the Church in the Modern World)</u> , Rome, 1965.<br><u>Lumen gentium (Dogmatic Constitution on the Church)</u> , Rome, 1964.   |
| Paul VI,      | <u>Populorum progressio (The Development of Peoples)</u> , papal encyclical, Rome, 1967.<br><u>Octogesima adveniens (A Call To Action)</u> , apostolic letter, Rome, 1971.   |
| John Paul II, | <u>Laborem exercens (On Human Work)</u> , Rome, 14 September, 1981.<br><u>Sollicitudo rei socialis (Concern For The Social Order)</u> , papal encyclical, Rome, December 30 <sup>th</sup> , 1987.<br><u>Mulieris dignitatem (On the Dignity &amp; Vocation of Women)</u> , apostolic letter, Rome, 15 August, 1988.<br><u>Centesimus Annus (The Hundredth Year: New Things, One Hundred Years Later)</u> , papal encyclical, Rome, May 1 <sup>st</sup> , 1991.<br>Letter of Pope John Paul II <u>To Women</u> , apostolic letter, Rome, June 29, 1995. |





## ***Other Resources:***

Alleged Harassment. Policy P. 053.HR, Ottawa-Carleton District School Board, 2003.

Anti-Harassment Policies for the Workplace: An Employer's Guide. Canadian Human Rights Commission, March 2006.

Employee Workplace Harassment. Policy # 201.7, Niagara Catholic District School Board, 2001.

Freedom From Harassment Policy. Policy A. 3.2, London District Catholic School Board, 2001.

Harassment and Discrimination in the Workplace. Policy # P0181, The Durham Catholic District School Board, 2003.

Human Rights in Ontario: A complainant's Guide. Ontario Human Rights Commission, 2005.

Ontario Human Rights Commission. "Developing Procedures to Resolve Human Rights Complaints Within Your Organization", 1996.

Ontario Secondary Schools Teacher Federation. "Workplace Harassment: Bibliography", Toronto, 2004.

Policy: Workplace Harassment. Policy 300.1, Brant Haldimand Norfolk Catholic District School Board, 2002.

Respectful Workplace Policy. Policy # 420, York Catholic District School Board, 2001.

Teaching Profession Act. Revised Statutes of Ontario, Chapter T.2, 1990.

The Human Rights Code. Revised Statutes of Ontario, Chapter H. 19, 1990.

Treasury Board of Canada Secretariat. "Policy on the Prevention and Resolution of Harassment in the Workplace", [http://www.tbs-sct.gc.ca/pubs\\_pol/hrpubs/hw-hmt/hara\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/hw-hmt/hara_e.asp), 2001.

Workplace Harassment. Policy P. 034 EMP, Toronto District School Board, 2004.

Occupational Health and Safety Act (Violence and Harassment in the Workplace), 2010.

Code of Conduct policy, S.S.09, 2013 Toronto Catholic District School Board

## *Appendix B*

### **HARASSMENT AND DISCRIMINATION IN THE WORKPLACE H.M. 14**

<b>Date Approved:</b> May 2, 2007	<b>Date of Review:</b> October 30, 2013	<b>Dates of Amendment:</b>
<ul style="list-style-type: none"><li>• <b>Cross Reference:</b></li><li>• <b>Education Act, 1990, s. 301, 302</b></li><li>• <b>Ontario College of Teachers Act</b></li><li>• <b>Occupational Health and Safety Act</b></li><li>• <b>Municipal Freedom of Information and Protection of Privacy Act</b></li><li>• <b>Ontario Human Rights Code</b></li><li>• <b>H.M. 24 Catholic Equity and Inclusive Education Policy</b></li><li>• <b>M.M. 28 Sexual Harassment</b></li><li>• <b>S.S. 089 Code of Conduct</b></li></ul> <b>Appendix A: The Respectful Workplace</b>		

#### **Purpose:**

This Policy commits the TCDSB to providing a work environment that promotes professionalism and ethical behaviour consistent with its Code of Conduct. The policy affirms the Catholic teachings that all women, men and children share a common dignity and deserve to be treated with the respect and consideration worthy of followers of Christ. It therefore, requires all persons to exercise behaviour that facilitates the creation of a working environment that is conducive to the achievement of excellence and the development of one's potential.

#### **Scope and Responsibility:**

This Policy extends to all Board employees, contract employees volunteers and Trustees who are employed by or perform functions for the Toronto Catholic District School Board. The Director of Education, supported by the Human Resources department, is responsible for this policy.

### **Alignment with MYSP:**

Living Our Values  
Inspired and Motivated Employees  
Strengthening Public Confidence

### **Financial Impact:**

Generally, there is no significant financial impact on the TCDSB.

### **Legal Impact:**

The Occupational Health and Safety Act require school boards to develop and implement a workplace harassment policy. The Education Act and the Ontario Human Rights Code provides that requires every person who is an employee has a right to freedom from harassment and discrimination in the workplace by his or her employer or agent of the employer or by another employee.

### **Policy**

The Toronto Catholic District School Board is committed to ensuring that harassment and discrimination as defined in the Harassment and Discrimination in the Workplace policy shall not be tolerated by the Board. In keeping with its values and legal responsibilities as an employer, the Board will treat any complaint of harassment and discrimination as a serious matter.

### **Regulations:**

1. The TCDSB document, The Respectful Workplace: Addressing Harassment and Discrimination, 2014, will govern the operational procedures for dealing with allegations of harassment and discrimination in the workplace. (**Appendix A**)
2. A complaint may be initiated by an individual who believes they have been harassed or by those who are covered by this policy who have witnessed directly or have reasonable grounds to suspect that harassment is occurring.

3. Any complaint must be filed within six (6) months following the incident(s) of harassment; however, the time limit may be extended at the discretion of the Board.
4. There shall be both a mediated process and a formal complaint resolution process available.
5. Individuals who engage in harassment may be disciplined up to and including dismissal.
6. Any determination arising from an investigation may be subject to an appeal process.
7. Complaints must not be made in a frivolous or vexatious manner or in bad faith and may be subject to disciplinary procedures if so determined.
8. All persons involved in a harassment/discrimination investigation shall maintain confidentiality to the fullest extent practicable and appropriate under the circumstances. Any breach of confidentiality is subject to appropriate disciplinary action.
9. Records will be retained in keeping with the requirements of the Municipal Freedom of Information and Protection of Privacy Act, the Human Rights Code and the Education Act.
10. The Director of Education will develop and implement protocols and procedures that discourage harassment and ensure that suitable awareness and training is available to all those covered by the policy.

### **Definitions:**

#### **Discrimination**

Unfair treatment because of race, sex, colour, ancestry, place of origin, ethnic origin, marital status, same sex partner status, sexual orientation, age, disability, citizenship, family status, religion, gender expression or gender identity.

#### **Harassment**

Harassment is any vexatious behaviour that threatens, intimidates, demeans, humiliates, or embarrasses a person or a group, and that a reasonable person should have known would be unwelcome. It includes actions, comments, or displays. It normally involves a course of conduct but a single act of a serious nature may constitute harassment.

The exercise of supervisory responsibilities, including training, performance appraisal, direction, instruction, counselling and

discipline does not constitute harassment as long as these are not being exercised in a discriminatory or intimidating manner.

### **Workplace**

The workplace is any place where employees, contract employees, volunteers and trustees and other users perform work or work-related duties or functions. Schools and school-related activities, such as extracurricular activities and excursions, comprise the workplace, as do Board offices and facilities. Conferences and training sessions are included within this policy.

### **Evaluation and Metrics:**

1. There will be an annual review as per legislative requirements under the Occupational Health and Safety Act of this policy and related procedures with a report to the Board.

## ***Appendix B***

### **Policy**

### **Regulations**