

WELCOMING, CARING, RESPECTFUL, AND SAFE LEARNING ENVIRONMENTS

Background

Livingstone Range School Division is committed to providing a welcoming, caring, respectful, and safe learning environment that respects diversity, fosters a sense of belonging, and promotes student and staff well-being. Each student and staff member has the right to learn and work in an inclusive environment, free from bullying, discrimination, harassment, and violence where equality of opportunity, dignity, and respect are promoted.

Livingstone Range School Division affirms the rights of students and staff as provided for in the *Alberta Human Rights Act* and the *Canadian Charter of Rights and Freedoms*. Any form of discrimination of students or staff, as provided for in the *Alberta Human Rights Act* or the *Canadian Charter of Rights and Freedoms* will not be tolerated.

The Division believes that it has the responsibility to address harassing and bullying behaviours and to provide a supportive learning and working environment. In keeping with its legal and social responsibilities as an employer, the Division will treat any complaint of harassment by any person as a serious matter.

This procedure applies to all individuals who work, study, visit or volunteer within the Division's sites during work and school related activities, whether on, or off Division property.

DEFINITIONS

1. **Discrimination** - means any behaviour or practice, whether intentional or not, that differentiates adversely, excludes or denies access to an individual on the basis of one or more of the following prohibited grounds: race, religious beliefs, colour, gender, gender identity, gender expression, sexual orientation, physical or mental disability, age, ancestry, place of origin, marital status, family status, or source of income.
2. **Harassment** – means any unwelcome verbal or physical behaviour, conduct or communication that disparages, humiliates, intimidates, threatens or harms another person. The behaviour need not be intended as harassing to be considered harassment. It is sufficient that one knows or ought reasonably to know that the behaviour is offensive or unwelcome.

NOTE: THE NORMAL EXERCISE OF SUPERVISORY AUTHORITY INCLUDING BUT NOT LIMITED TO TRAINING, DIRECTION, INSTRUCTION, SUPERVISION, EVALUATION AND DISCIPLINE DOES NOT CONSTITUTE HARASSMENT.

Harassment includes both sexual harassment and personal harassment, and without limiting the generality of the foregoing, includes the following:

- a) unwelcome remarks, jokes, innuendoes or taunting;
 - b) practical jokes of a type which cause embarrassment, indignation or intimidation;
 - c) use of, or display of, offensive material
 - d) leering or other inappropriate gestures;
 - e) unnecessary and inappropriate physical conduct such as touching, patting, or pinching;
 - f) demands for sexual favours or
 - g) assault.
3. **Complainant** – a person who believes they or another person has been the subject of Harassment or Discrimination and who seeks recourse through this procedure.
 4. **Respondent** – A person against whom an allegation of Harassment or Discrimination has been made pursuant to this procedure.
 5. **Mediation** – A process by which a neutral third party helps the people involved in the complaint reach a solution that is acceptable to both parties.

PROCEDURES

1. Complaint Resolution Mechanisms

- a) A complaint of Harassment or Discrimination under this procedure may be resolved by any one or more of the following mechanisms:
 - i. Informal Resolution: either by the Complainant informing the Respondent directly that their actions are unwelcome and must stop immediately, or where the Complainant is uncomfortable approaching the Respondent directly, requesting that a third party provide assistance by way of informal intervention, including Mediation;
 - ii. Formal Resolution: where informal resolution proves unsuccessful or is not appropriate in the circumstances, the Complainant may request a formal investigation initiated by a formal written complaint;
- b) In the absence of a specific complaint of Harassment or Discrimination, an independent investigation may be initiated by the Superintendent or designate where:
 - i. there is a pattern of inquiries or complaints over time which suggests the existence of a specific problem which has been identified but not corrected;
 - ii. there is reason to believe that a broader, systemic problem exists in the learning and/or working environment which causes, contributes to or encourages Harassment and/or Discrimination;
 - iii. as a result of an investigation, a specific complaint is not supported but there is reasonable evidence to support that a broader systemic problem exists; or
 - iv. In any other circumstances that the Superintendent or designate deems it appropriate.

- c) When an independent investigation is initiated as outlined above, the Superintendent or designate shall advise the parties involved of the commencement of an independent investigation, including the reasons for initiating the investigation, and the process and procedures which will be followed in carrying out the investigation which may include but is not limited to the formal complaint resolution process as outlined in this administrative procedure.
- d) The Superintendent or designate may decide to assign the Complainant and/or Respondent to a different work area/learning environment during the mediation and/or investigation process.
- e) All staff are required to report suspected cases of Harassment or Discrimination forthwith to either their supervisor or to Central Office Administration.
- f) All staff and students are responsible for:
 - i. Complying with this administrative procedure;
 - ii. Making, in good faith, complaints of Harassment and/or Discrimination; and
 - iii. Cooperating with any investigation that is undertaken in accordance with this administrative procedure.

2. INFORMAL COMPLAINT RESOLUTION PROCEDURES

a) Making an Informal Complaint

- i. Use of the informal complaint resolution procedures is not a pre-requisite to seeking a formal resolution, however, individuals are encouraged to first take direct action to resolve an issue of harassing or discriminatory behaviour by advising the Respondent (either verbally or in writing) at the earliest opportunity that his or her actions are unwelcome and tell them to stop.
- ii. If the Complainant has been unable to resolve the issue on their own, or the Complainant is not comfortable approaching the Respondent directly, the Complainant will proceed to make an informal complaint to a person in authority such as a trusted adult, teacher, counsellor, supervisor, principal, or the Superintendent if the complaint involves their supervisor or principal.

b) Responsibility of a Person in Authority receiving an Informal Complaint

When a person in authority receives an informal complaint, the following actions shall be taken in a timely manner by the person in authority to assist in resolving the complaint on an informal basis, namely:

- i. Review the complaint submitted to determine the basis of the allegations being made and whether a formal investigation is required;
- ii. Notify the Respondent that an informal complaint has been received. The Respondent is entitled to know the name of the person(s) making the informal complaint, as well as the specifics of the allegations such as times, dates and the alleged conduct;
- iii. Meet with the Complainant and the Respondent to outline the allegations and attempt to resolve the complaint informally;
- iv. Provide mediation assistance to both parties if they are willing to engage in mediation; and
- v. Monitor the status of the complaint, holding if necessary, subsequent meetings with

the Complainant and Respondent and taking any further steps as deemed appropriate to ensure that the matter has been satisfactorily resolved.

3. FORMAL RESOLUTION

- a) A formal complaint may be filed in the following circumstances:
 - i. If the complaint has not been resolved at the informal level, including through mediation;
 - ii. Should the harassment continue; or
 - iii. If the Complainant, or the person in authority to whom the complaint has been made believe that the nature of the alleged harassment warrants formal resolution.
- b) A formal complaint shall be made in writing to a person in authority, when reasonable to do so, by the Complainant and contain the following:
 - i. the Complainant's name and position if any;
 - ii. who the Respondent(s) was/is/were/are;
 - iii. where the alleged incident(s) took place;
 - iv. when the alleged incident(s) took place;
 - v. the nature of the alleged incident(s);
 - vi. names of witnesses (if any); and
 - vii. what, if anything, was done to stop the bullying, discriminatory, harassing, or violent behaviour.
- c) If the Superintendent is identified as the Respondent, the entire matter shall be directed to the Board.
- d) Upon receiving the formal complaint, the person in authority shall report the complaint to the principal or supervisor, or if the complaint involves the principal or supervisor, the Superintendent, who shall:
 - i. Within ten (10) working days, carry out a preliminary review of the complaint to ensure that it is complete and determine whether or not there are reasonable grounds for investigation.
 - ii. After determining that the complaint is complete and there are reasonable grounds for investigation, the principal, supervisor, or Superintendent as the case may be, shall promptly inform the Complainant and Respondent that a formal complaint has been received and will be investigated. The Respondent(s) has a right to know the specifics of the allegation(s), including times, dates, the alleged conduct complained of, and receive a copy of the complaint.
- e) Complaints are to be made within a reasonable time frame from the date of the initial incident. Complaints which are brought forward more than one (1) year from the date of the occurrence may not be investigated at the discretion of the principal, supervisor or Superintendent as the case may be.
- f) If at any point in the formal process, the parties mutually agree that the informal approach is more appropriate, the formal process may be suspended.

4. FORMAL INVESTIGATION PROCESS

- a) Within five (5) working days of informing the parties that a formal complaint has been received in accordance with 3(d) above, an impartial investigator shall be assigned by the Superintendent or designate to conduct an investigation which will consist of interviews of the Complainant, the Respondent(s), and others who may have knowledge of the incident(s) or circumstance(s) that led to the complaint.
- b) In the case of a student Complainant, and/or Respondent, the parents of the student may be contacted at an appropriate time during the investigation at the discretion of the investigator, taking into consideration the age of the child and the nature of the allegations being investigated.
- c) The investigator shall make a written report with the findings of the investigation and recommendations to the Superintendent or designate within thirty (30) working days from the date the Respondent received notice of the complaint.
- d) Timelines may be extended at the discretion of the Superintendent or designate.

5. OUTCOME

- a) Within ten (10) working days of receiving the report, the Superintendent or designate shall review the investigator's report and decide whether, on a balance of probabilities, there is enough evidence to conclude that Harassment or Discrimination has occurred.
- b) The Superintendent or designate shall communicate their decision to the parties and the parents/guardians of the Complainant and/or Respondent student as the case may be (unless the student is determined to be an independent student). Such communication shall be in accordance with the Freedom of Information and Protection of Privacy Act. Specifically, the information provided to the Complainant will be limited to the finding of whether or not Harassment or Discrimination has occurred within the meaning of this administrative procedure, and whether or not disciplinary action will be imposed as a result. The specific nature of any disciplinary action taken against the Respondent(s) or others will not be disclosed to the Complainant or the parents/guardians of a Complainant.
- c) When the Superintendent or designate finds the complaint is founded, he/she shall determine appropriate action which may include, but is not limited to:
 - i. Discipline of an employee found to have committed an action of Harassment or Discrimination, which may range from a reprimand up to and including termination of employment;
 - ii. Removal of the Respondent from the working or learning environment;
 - iii. Referral of the Complainant and/or Respondent to available supports such as the Division's Employee Assistance Program where applicable or other support resources within or outside of the school;
 - iv. Initiate a formal evaluation of the Respondent if the complaint is related to staff performance.

6. UNSUBSTANTIATED COMPLAINTS

- a) If a person, in good faith, files a complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed, and no record of it will be put in the Respondent's file/ student record.
- b) If the complaint made (informal or formal) is determined, based on a balance of probabilities, to be made in good faith, there will be no penalty to the person who complained, and no record of a complaint, investigation, or decision will go in the Complainant's personnel file/student record.

7. COMPLAINTS MADE IN BAD FAITH

- a) If the complaint made (informal or formal) is determined, based on a balance of probabilities, to be made in bad faith, is vexatious or is clearly without merit, the complaint process shall be discontinued and disciplinary action may be taken against the Complainant , up to and including dismissal from employment, or exclusion from the Division's working and learning environment.

8. CONFIDENTIALITY

- a) The Division recognizes the difficulty of reporting Harassment and Discrimination, and understands that confidentiality is important to Complainants.
- b) In order to carry out both informal and formal investigations under this procedure, all complaints and information gathered in the course of investigating a complaint, including the identity of the Complainant, Respondent and any witnesses, will only be disclosed:
 - i. As necessary for the purposes of this administrative procedure and to conduct any investigation in accordance with the principles of fairness and natural justice;
 - ii. In accordance with FOIP or any other statute; and
 - iii. Where disclosure is necessary due to an imminent threat to the safety of the Complainant or others.

9. RETALIATION

- a) Retaliation against individuals who have reported a complaint (informal or formal) or against any participants involved in an investigation under this administrative procedure will not be tolerated.
- b) Alleged acts of retaliation will be considered Harassment under this procedure and shall be investigated as a formal complaint, and if substantiated, will be subject to the same consequences as a founded complaint of Harassment.

10. RECORDS

- a) All records related to an investigation of Harassment, Discrimination or retaliation must be kept separate from a Respondent's personnel file, except when the allegations are determined to be substantiated.
- b) Records of student complaints and any disciplinary actions taken as a result, must be kept in accordance with the Student Record Regulation 225/2006.

11. OTHER ACTIONS

- a) In addition to seeking informal or formal resolution of a complaint of Harassment or Discrimination, nothing in this administrative procedure restricts a person's legal right to:
 - i. Make a complaint with the Alberta Human Rights Commission;
 - ii. Contact the police if an assault or sexual assault has occurred;
 - iii. Seek legal advice; or
 - iv. File a complaint with a professional regulatory body or employee union or association as applicable;

- b) Nothing in this administrative procedure negates an individual's duty to report behaviour to the proper authorities that gives the person reasonable and probable grounds to believe that a child is in need of intervention as required by the Child, Youth and Family Enhancement Act.

- c) A parent or a student, who is 16 years of age or older, may appeal a decision made by a Division employee that significantly affects the education of a student, as per Policy 14 Appeals Regarding Student Matters.

New Policy Dec. 2014

References

School Act 16.1, 45.1

Alberta Human Rights Act

Board Policy 21

Board Policy 14

Administrative Procedure 308 Sexual Orientation and Gender Identity

Administrative Procedure 350 Student Expectations and Discipline

Updates: Numbering change from 308 to 307 - February, 2016
January, 2018; June, 2018