



P031, Human Rights Policy Review: Phase 5

To: Governance and Policy Committee

Date: 2 June, 2021

Report No.: 06-21-4105

Strategic Directions

- Create a Culture for Student and Staff Well-Being
- Transform Student Learning
- Provide Equity of Access to Learning Opportunities for All Students
- Allocate Human and Financial Resources Strategically to Support Student Needs
- Build Strong Relationships and Partnerships Within School Communities to Support Student Learning and Well-Being

Recommendation

It is recommended that the revised Human Rights Policy (P031), as presented in this report, be approved.

Context

The current Human Rights Policy (P031) (“Policy”) was adopted by the Board of Trustees on May 3, 2000 and last updated on May 19, 2004. The Policy has been reviewed in accordance with the Policy Review Work Plan approved by the Governance and Policy Committee on June 7, 2017. On April 29, 2020, the Governance and Policy Committee received a status update on the review of the Policy. The status update outlined the HRO’s expanded mandate and the Board’s strategic priorities in relation to the Human Rights Policy (P031).

The proposed revised Policy is included at Appendix A (with tracked changes version at Appendix B), and a summary of the proposed changes are included at Appendix C.

The current proposed content revisions to the Policy are based on the Committee’s directions, the Policy Review Work Plan (Appendix D), a critical equity review of

operational requirements and current practices, as well as a scan of related policies in other jurisdictions (Appendix D).

Revisions to the Policy are also based on feedback received during policy consultations including from students, staff and community members, TDSB's Urban Indigenous Education Centre, federations, unions, staff associations and the Board's Community Advisory Committees including direct engagement with the Special Education Advisory Committee and Parent Involvement Advisory Committee. Public consultations were conducted from February 17, 2021 until May 11, 2021.

The revised Policy actions TDSB's commitment to meeting its obligation under the Ontario *Human Rights Code* by providing schools, workplaces, and other TDSB environments that respect human rights. The Policy seeks to protect, promote and advance the human rights of all TDSB members to learn, function and work in an equitable, accessible, respectful and inclusive environments free of discrimination and harassment on the basis of the protected grounds of discrimination specified in the Policy and protected under the Ontario *Human Rights Code*. The Policy also ensures that the TDSB meets its positive human rights obligations, including to proactively identify, address, and prevent all forms of discrimination, including individual and systemic discrimination.

The revised Human Rights Policy (P031) is being presented to the Committee for consideration and approval.

Action Plan and Associated Timeline

Subject to the Governance and Policy Committee's directions, the revised Policy will be presented to the Board of Trustees for consideration and final approval on June 30, 2021. Staff will initiate the review of existing and, as required, development of new operational procedures to support implementation of the revised Policy.

Resource Implications

No additional resources will be required for the implementation of the revised Policy at this time.

Communications Considerations

Following Board approval, the Policy will be communicated to the system and posted on the Board's public website.

Board Policy and Procedure Reference(s)

- Acceptable Use of Information Technology Resources (P088)
- Accessibility (P069)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Dealing with Abuse and Neglect of Students (P045)
- Equity (P037)
- Gender-Based Violence (P071)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Respectful Learning and Working Environment (P073)
- Workplace Harassment Prevention for Non-Human-Rights-Code Harassment (P034)
- Workplace Violence Prevention (P072)
- Abuse and Neglect of Students (PR560)
- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Code of On-line Conduct (PR571)
- Complaint Protocol for the Board Member of Conduct (PR708)
- E-mail Usage (PR572)
- Police-School Board Protocol (PR698)
- Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools (PR728)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights Procedure (PR515) [Note: currently under review]

Appendices

- Appendix A: Human Rights Policy (P031) – Revised, Clean
- Appendix B: Human Rights Policy (P031) – Revised, Changes Tracked
- Appendix C: Summary of changes to the revised Human Rights Policy (P031)
- Appendix D: Policy Review Workplan and Scan

From

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Toronto District School Board

 Policy P031

Title: **HUMAN RIGHTS**
 Adopted: May 3, 2000
 Effected: May 3, 2000
 Revised: May 19, 2004; [New Date]
 Reviewed: May 19, 2004 [date when the policy was reviewed]
 Authorization: Board of Trustees

1.0 RATIONALE

The Toronto District School Board (“TDSB”) acknowledges and seeks to dismantle the Board’s colonial structures and practices and recognizes the devastating and ongoing impacts of colonization on First Nations, Métis, and Inuit people.

It is recognized and acknowledged that many members of the TDSB community continue to experience exclusion and marginalization, including racism, anti-Indigenous racism, anti-Black racism, ableism, sexism, transphobia & cissexism (discrimination and prejudice on the basis of gender identity), homophobia, and other forms of marginalization and prejudice.

TDSB recognizes that sustained measures, both proactive and reactive, are required to eradicate discrimination and to ensure that all members of the TDSB community are included, welcomed, and feel valued in all TDSB environments.

The Human Rights Policy (the “Policy”) affirms and supports the TDSB’s commitment to defending, upholding and promoting human rights in all learning and working environments for the benefit of all members of the TDSB community. This Policy supports the implementation of TDSB obligations under the Ontario *Human Rights Code*, the *Education Act*, the *Canadian Charter of Rights and Freedoms*, and the *Occupational Health and Safety Act*.

2.0 OBJECTIVE

The objectives of the Policy are:

- To protect, promote and advance the human rights of all TDSB members (see definition below) to learn, function and work in an equitable, accessible, respectful and inclusive environment free of discrimination and harassment on the basis of the protected grounds of discrimination specified in this Policy and protected under the Ontario *Human Rights Code*.
- To ensure TDSB meets its positive human rights obligations, including to proactively identify, address, and prevent all forms of discrimination, including individual and systemic discrimination.

3.0 DEFINITIONS

For the purposes of this Policy:

Accommodation – see below under “Duty to Accommodate”.

Allegation means an unproven claim or assertion that someone has violated this Policy.

Board means Toronto District School Board, which is also referred to as “TDSB.”

Code means the Ontario *Human Rights Code*.

Condonation means the practice – particularly on the part of a person in a position of authority – of overlooking, downplaying, accepting and/or failing to respond to discriminatory behaviour.

Directing Minds means employees with supervisory authority who function, or are seen to function, as representatives of an organization. Persons who are not identified as supervisors *per se* may be directing minds if they have supervisory authority or have significant responsibility for the guidance of employees.

Discrimination means adverse treatment in a TDSB environment that is unfair based on one or more protected grounds; or treatment that results in disadvantage, violates dignity, or perpetuates prejudice against a person or group in a TDSB environment in relation to one or more protected grounds. Discrimination can be direct or indirect, individual or systemic (see definition below), and need not be intended. It also includes hate activity in TDSB environments.

Intersectional discrimination is a form of discrimination that occurs based on two or more *Code* grounds that produce a unique and distinct form and experience of discrimination that cannot be reduced to any single *Code* ground. The concept of intersectional discrimination recognizes that people may have multiple

overlapping identities, and that marginalization, exclusion and discrimination may be further exacerbated because of how these identities interact or “intersect.”

Discrimination does not include the existence of measures designed to relieve disadvantage or systemic discrimination, or to assist persons or groups who experience disadvantage to achieve or attempt to achieve equal opportunity.

Duty to Accommodate means the legal obligation to make adjustments, provide support, or make exceptions in order to avoid discrimination on the basis of a protected ground so as to ensure fair and equitable access, treatment, and inclusion, and for individuals to be able to participate equally and perform to the best of their abilities in the learning environment, workplace, or other TDSB environment.

- The duty to accommodate may require making adjustments to or exceptions to policies, procedures, programs, guidelines, practices, physical settings, requirements, or criteria in keeping with the principle of the primacy of the *Code*.
- If a person in a position of authority has information or has made observations that suggests there may be a need for accommodation, that person is under a duty to make reasonable inquiries into whether an accommodation may be required.
- When there is a duty to accommodate, accommodation is required up to the point of undue hardship, which is a very high threshold.
- The procedural duty to accommodate requires that the accommodation process be transparent, collaborative and respectful. Requests for accommodation cannot be ignored.

Employee includes any person who is an “employee” under the *Code*. It also includes any person who is a “worker” under the *Occupational Health and Safety Act* including, but not limited to: full-time, part-time, regular, temporary, and probationary employees; co-op students; and contract employees.

Harassment means a course of vexatious comment or conduct in a TDSB environment, based on a protected ground, which is known, or ought reasonably to be known, to be unwelcome, and includes sexual harassment. Harassment is a form of discrimination. It is usually the result of a series of incidents (“a course” of comment or conduct) but may also result from one very serious incident. (Note: non-*Code* workplace harassment, which is not based on a protected ground, is covered under the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy [P034].)

Hate Activity means a hate crime or a hate incident.

Hate Incident means non-criminal conduct that is motivated in whole or in part by hatred against an individual or group on the basis of a protected ground. A hate incident can encompass situations in which the conduct is directed against people associated with individuals or groups identified with the protected grounds. The conduct can be verbal, nonverbal or written, and may manifest itself in the form of slurs, insults, harassment, abusive gestures, taunting, display of offensive materials or hate symbols, or other acts which may intimidate, degrade and/or marginalize the targeted individual or group.

Hate Crime means a criminal offence that is committed against a person or property, and which is motivated in whole or in part by hatred or bias based on race, national or ethnic origin, language, colour, creed, religion, sex, age, mental or physical disability, sexual orientation, gender identity, or gender expression. This includes, but is not limited to, hate-motivated violence, incitement to hate-motivated violence, and/or the display of symbols or other representations identified with groups promoting hate and violence. It also includes such crimes committed against a person who is associated, or perceived to be associated, with individuals or groups identified with one of the aforementioned *Code*-protected grounds.

HRO means the Human Rights Office.

Instance includes an incident, event, ongoing situation, circumstance, environment, practice, policy, procedure, rule, directive, etc. that gives rise to a breach of this Policy. The term “potential instance” refers to knowledge, including based on rumour, report, or reasonable suspicion, that warrants investigation to ascertain whether a violation of this Policy has occurred.

Learning Environment means any land, premises, location, event or thing at, upon, or in which a TDSB student or TDSB member (see definition below) learns or engages in activities connected to the learning environment (e.g. parent engagement/parent council activity etc.). This includes virtual/online environments. Conduct that has consequences for the learning environment, regardless of where it occurs, may be considered to have occurred in the learning environment.

Manager means a supervisor or a directing mind as defined in this Policy.

OHSA means the *Occupational Health and Safety Act*. The *OHSA* prohibits all workplace harassment even if not on the basis of a protected ground. This Policy implements *OHSA* requirements with regard to workplace harassment on the basis of a protected ground. The Workplace Harassment Prevention for Non—Human-Rights-Code Harassment Policy (P034) implements the *OHSA* requirements with regard to workplace harassment that is not based on a protected ground.

Parent means a parent, guardian or any other caregiver legally recognized as acting in place of the parent.

Person in a Position of Authority means a manager, or a person with authority over students (eg. teachers, educational assistants, school-based safety monitors, child and youth workers, designated early childhood educators, lunchtime supervisors, bus drivers, office support staff, etc.).

Poisoned Environment means a TDSB environment that is oppressive, negative, hostile, unwelcoming, or non-inclusive as a result of vexatious behavior that is based on a protected ground and that is known, or ought reasonably to be known, to be unwelcome. The vexatious behaviour or conduct does not need to be directed toward any person or group in particular. A poisoned environment may result from a series of incidents or a single serious incident, condonation of such behavior, and/or the failure to adequately remedy and restore the environment following the incident(s).

Positive Human Rights Obligations, also called “positive obligations”, mean organizational duties which entail taking active steps to safeguard and advance human rights. Examples of positive obligations include: conducting training; monitoring human rights compliance through data collection, analysis and reporting; and other affirmative measures aimed at preventing human rights violations and fostering a culture of human rights, even in the absence of complaints.

Protected Ground means the grounds upon which discrimination is prohibited under the Ontario *Human Rights Code* and this Policy. The grounds are:

- Age (an age that is 18 years or more)
- Ancestry
- Citizenship
- Colour
- Creed (includes but is not limited to religion and Indigenous spirituality)
- Disability (includes mental, physical, perceived)
- Ethnic origin
- Family status (includes child, adoptive, elder relationships)
- Gender expression
- Gender identity
- Marital status (including single, separated, widowed, common law and covers same and opposite sex relationships)
- Place of origin
- Race
- Sex (includes pregnancy and breastfeeding)
- Sexual orientation
- Socio-economic status*
- Record of offences (in employment only)
- Association with a person identified by a ground listed above

*Note: Socio-economic status is a protected ground under this Policy, but not under the *Code*.

Treatment that occurs as a result of perceived membership in a protected group is also protected.

RBH Portal means the Racism, Bias and Hate online reporting portal, a system which enables detailed incident reporting on racism and hate incidents involving or impacting students in schools, as governed by the procedure for Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools (PR728). It also provides a record of responses to such incidents, in the form of action plans and communication strategies, while allowing for the identification of any potential lessons learned, good/best practices, future preventative measures required, and any other systemic considerations.

Reprisal means adverse action or threat of adverse action against an individual that is in retaliation:

- (a) for, in good faith, raising concerns or claiming or enforcing a right under this Policy or associated procedures or supporting or assisting someone to do so;
- (b) for participating in a process to address a matter under this Policy or associated procedures; or
- (c) on the basis of a belief that the individual has engaged in (a) or (b).

Adverse action in the above definition could include, for example:

- disciplining, suspending, dismissing, or expelling;
- intimidating or coercing someone not to report a situation;
- changing an employee's position, shift, work location, work assignments or the nature of their work;
- moving a student to a different class;
- unfair grading;
- reducing or changing an employee's hours;
- denying a promotion; or
- harassing or discriminating.

Sexual Harassment means:

- (a) engaging in a course of vexatious comment or conduct because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome;
- (b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance; or
- (c) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the

solicitation or advance is unwelcome. This creates a higher standard for those in positions of power because the solicitation or advance does not have to be “a course of conduct” or “egregious.” Where the unwanted sexual solicitation or advance is from a person not in a position of authority, the usual test of “course of conduct” or “single egregious incident” applies.

Sexual Harassment also includes cyber sexual harassment.

Student means a person who is enrolled at TDSB and includes an adult.

Supervisor means an employee who exercises managerial/supervisory authority in relation to other employees or volunteers.

Systemic Discrimination means patterns of behaviour, policies and/or practices that are part of administrative structures or informal culture within TDSB, and that create or perpetuate disadvantage for individuals or groups on the basis of a protected ground.

TDSB means Toronto District School Board, which is also referred to as the “Board.”

TDSB Environment includes a TDSB learning or working environment, as defined in this Policy, and includes:

- TDSB owned or operated places, Board premises, offices, and facilities (including eating, lounge/changing areas and vehicles used for TDSB purposes or on TDSB property);
- schools and school-related activities;
- Board-related functions, activities, or events;
- online environments;
- activities, including electronic messages and postings on electronic and social media, which have significant negative consequences for the TDSB environment; and
- all applicable social areas (eg. employment; goods, services, and facilities; and contracts) protected by the *Code*.

TDSB Member/Member of the TDSB Community means, but is not limited to, students, parents/guardians, employees, job applicants, trustees, committee members, school/parent council members, permit holders (including organizations who use Board facilities), vendors, service providers, contractors, volunteers, visitors, customers of the Board, bargaining agents and associations, and all other persons who are invited to, work in, or are permitted to attend or participate in TDSB environments.

Vexatious means comment or conduct that is inappropriate or unnecessary and that a TDSB member experiences as offensive, embarrassing, humiliating, distressing or demeaning.

Workplace/Working Environment means any land, premises, location or thing at, upon, in or near which an employee works, in keeping with the definition in the *OHSA*. For the purpose of this Policy, it also includes any place where individuals perform work or work-related duties or functions. Schools and school-related activities, such as extra-curricular activities and excursions comprise the workplace, as do Board offices and facilities (including eating, lounge or changing areas, and vehicles used for work purposes or on work property). Conferences, workshops, training sessions and staff functions (for example, staff parties and retirement celebrations) and job competitions also fall within the scope of this Policy. Regardless of where it occurs, conduct that has work-related consequences may be considered to have occurred in the workplace. Phone calls, electronic messages, and postings on electronic and social media may form part of the workplace.

4.0 RESPONSIBILITY

The Director of Education holds primary responsibility for implementation of this Policy.

Within the Director's Office, the responsibility for coordination and day to day management of the Policy is assigned to the Executive Superintendent, Human Rights and Indigenous Education.

5.0 APPLICATION AND SCOPE

This Policy applies to all students, employees, and other members of the TDSB community in TDSB environments.

The Policy prohibits discrimination and harassment on the basis of the protected grounds and covers all *Code* protections applicable to the TDSB environment. It also prohibits hate activity.

Harassment that is not related to a protected ground does not fall under this Policy but may fall under other Board policies such as the Code of Conduct (P044). Workplace harassment that is not related to a protected ground falls under the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034).

6.0 POLICY

6.1. Policy Statement

6.1.1. The TDSB is committed to safeguarding, advancing and proactively promoting the right of every student, employee and TDSB member to learn, function and work in an equitable, accessible, respectful and inclusive environment free of discrimination and harassment.

6.1.2. All forms of discrimination and harassment based on a protected ground are strictly prohibited in TDSB environments, in fulfillment of legal obligations under the Ontario *Human Rights Code*, the *Canadian Charter of Rights and Freedoms*, the *OHS*A and in accordance with international human rights covenants, conventions, treaties and declarations to which Canada is a signatory, including the United Nations Declaration on the Rights of Indigenous Peoples.

6.1.3. The Board will not tolerate, condone or ignore discrimination, harassment or hate activity in its schools, facilities, workplaces or other TDSB environments.

6.1.4. The Board will take every reasonable step to:

- Prevent discrimination, harassment and hate activity and to cultivate and sustain equitable, accessible, respectful and inclusive learning, working, and other TDSB environments free of discrimination and harassment.
- Treat allegations of discrimination or harassment seriously, and appropriately address them in a timely, fair, proportionate manner, in accordance with this Policy, the applicable procedures and applicable law, with the aim of preserving the dignity, respect and rights of all parties.
- Promote awareness of human rights and responsibilities.
- Restore learning, working, and other TDSB environments affected by discrimination, harassment or hate.
- Fulfill its duty to accommodate persons based on a protected ground, up to the point of undue hardship, in accordance with its legal obligations, including under the *Code*.

6.2. Principles

In fulfilling its positive human rights obligations and commitments to protect and advance human rights, TDSB will:

- (a) Recognize and give life to the primacy of the *Human Rights Code* over policy, procedure, directives, rules, practices, contractual agreements, and over other legislation as specified in s. 47(2) of the *Code*.
- (b) Function in a proactive, systemic, and informed manner (based on evidence when available) so that the Board may take necessary steps to prevent and avert violations of this Policy and be actively alert to

emerging issues, systemic trends and conditions that may potentially contribute to discriminatory outcomes, rather than only waiting for breaches of human rights to occur or become apparent before being addressed.

- (c) Recognize that fostering and sustaining an equitable, accessible, respectful and inclusive environment free of discrimination and harassment is integral to the fulfillment of all TDSB roles and functions, and is a shared responsibility requiring the cooperation of all TDSB members.
- (d) Cultivate public trust and accountability, including being transparent with the communities we serve, through public reporting and engagement around human rights issues and outcomes at the Board, and other appropriate measures.
- (e) Interpret and apply this Policy harmoniously with the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples, in recognition of Indigenous sovereignty, and in keeping with the principles set out in [What We Have Learned: Principles of Truth and Reconciliation](#) by the Truth and Reconciliation Commission of Canada.
- (f) Interpret and apply this Policy harmoniously with the spirit and intent of the Board's Equity Policy (P037), and the Board's commitments to principles of anti-racism and anti-oppression, and will not interpret or apply this Policy in a manner that undermines the values or rights reflected therein.

6.3. Policy Violations

Engaging in discrimination, harassment or hate activity of any kind is a violation of this Policy. Behaviours and practices in TDSB environments that are contrary to this Policy include, but are not limited to, the following examples:

- (a) discrimination;
- (b) harassment including sexual harassment;
- (c) creating or contributing to a poisoned environment;
- (d) hate activity;

- (e) failure of a person in a position of authority to respond appropriately and expeditiously to allegations, instances, potential instances or complaints of discrimination, harassment, poisoned environment, or reprisal;
- (f) failure of management to identify, address, or remove systemic discrimination;
- (g) interference with an investigation under this Policy, including but not limited to intimidating any person involved in the investigation, or influencing a person to give false or misleading information;
- (h) reprisal;
- (i) bad faith allegations, complaints, or accusations (e.g., submitting a complaint knowing there has been no violation of this Policy);
- (j) purposefully or recklessly providing false or misleading statements or information to an investigator investigating a matter under this Policy;
- (k) failure to adhere to the confidentiality provisions set out in the procedures made pursuant to this Policy; and
- (l) failure to fulfill the procedural or substantive duty to accommodate under the *Code*, including failure to offer effective or appropriate accommodation up to the point of undue hardship.

6.4. Consequences for Policy Violations

Action may be taken with any TDSB member who fails to abide by the requirements set out in this Policy and associated procedures, including but not limited to performance management, remedial action or discipline up to and including termination of employment, suspension or expulsion from educational services, or removal from or denial of access to TDSB institutional spaces and facilities, in accordance with applicable law, the remedial purpose of the *Code*, and where appropriate, principles of progressive discipline.

Note: Remedial action for persons who are not employees is taken after consultation with the Legal Services Department and/or Safe Schools Department and/or applicable superintendent, as appropriate. This may result in, but is not limited to, denial of access to Board premises or issuance of trespass notices. Remedial or disciplinary action for employees must be done in consultation with Employee Services, and a disciplinary review committee as required in accordance with procedure made pursuant to this Policy.

6.5. Human Rights Organizational Change Program

6.5.1. In keeping with TDSB's positive obligations, the TDSB will create and maintain a systemically focused and proactive Human Rights Organizational Change Program that will aim to prevent discrimination and harassment and enable, support and advance the creation and preservation of a transformational culture of human rights at the TDSB in which all members of the TDSB community:

- equitably flourish with dignity and respect; and
- achieve equitable outcomes in TDSB learning and working environments, free from discrimination and harassment.

6.5.2. The program will include, but not necessarily be limited to, the following, as further specified in section 6.5.3 to 6.5.7 below:

- (a) A process to identify, remove and prevent potential systemic forms of discrimination, whether by virtue of acts of commission or omission, in TDSB policies, procedures or practices;
- (b) A performance management framework that integrates and embeds accountability for human rights across the organization, including in hiring and promotion decisions;
- (c) Data collection, analysis and reporting to measure and evaluate TDSB's progress in protecting and advancing human rights, and to inform appropriate remedial and preventive systemic interventions; and
- (d) Information, learning and awareness to ensure TDSB members are aware of their rights and responsibilities under this Policy and have the necessary knowledge, skills and competencies to exercise those rights and to fulfill those responsibilities.

6.5.3. Review of Policies, Procedures and Practices

- (a) The TDSB will review policies, procedures and practices, and revise or develop these whenever necessary to ensure compliance with this Policy.
- (b) The HRO will develop and implement a Human Rights Impact Assessment (HRIA) framework to be used in identifying, assessing, mitigating, remedying or preventing systemic discrimination, including as this manifests in policies, practices, or procedures, or the lack thereof.
- (c) The HRO may initiate a Human Rights Impact Assessment of a TDSB policy, practice or procedure, or lack thereof, where it believes there may be a significant discriminatory effect. In conducting the HRIA, the HRO will consider the potential extent and depth of adverse impacts and

outcomes on protected grounds, and offer recommendations to eliminate and prevent these.

- (d) TDSB members must comply with HRO requests for information for the purposes of Human Rights Impact Assessments (unless deemed legally privileged and confidential). The HRIA process may include inviting public input from affected members of the community.
- (e) The results of Human Rights Impact Assessments will be posted publicly on a Board website or referenced in the HRO's Annual Human Rights Report (see section 6.5.5.3 below).

6.5.4. Performance Management and Accountability

The following measures will be developed and implemented:

- (a) The TDSB will ensure that human rights competencies are evaluated as a standalone competency in the context of performance appraisals and in hiring and promotion decisions for system leaders, administrators, teachers, and other employees who undergo applicable performance appraisals. This competency will have increasing degrees of weight and consideration for managers, according to their power and supervisory authority, owing to their additional corporate responsibilities to protect and advance human rights in areas under their supervision. For positions involving direct responsibility for or engagement with students, it will be a primary and necessary competency and a required qualification.
- (b) Violations of human rights will be tracked and considered in employment hiring and promotion decisions.
- (c) The TDSB will incentivize system leaders to advance human rights organizational change, including by recognizing and rewarding excellence in safeguarding and promoting human rights.

6.5.5. Data Collection, Analysis and Reporting

6.5.5.1. Recognizing the value of quantitative and qualitative data for evaluating human rights compliance and progress, identifying human rights issues and trends, and informing appropriate evidence-based, remedial or preventative interventions, TDSB Senior Team members will, at least annually, analyze and review the results of relevant existing human rights data including as collected through the RBH Portal, HRO inquiry and complaint process, the Student and Parent Census, the Staff Census & Well-Being Survey, and school climate surveys.

6.5.5.2. The HRO will consider and, where appropriate, develop in collaboration with other Board departments, additional human rights data collection tools and indicators to gather the perspectives/experiences of students, parents, employees and other TDSB members.

6.5.5.3. The HRO will produce an Annual Human Rights Report for the Board of Trustees including the above de-identified data findings. The report will also include disaggregated data findings, based on the protected grounds, in order to identify inequalities and areas where concerted effort is needed to close human rights gaps. This Report will be released publicly including by posting it on a TDSB website.

6.5.6. Information, Learning and Awareness

6.5.6.1 The Board will develop and implement measures to build TDSB members' capacity to promote an equitable, accessible, respectful and inclusive environment free of discrimination and harassment including by:

- (a) Making accessible, user-friendly information and instruction available to ensure TDSB members are aware of their human rights and responsibilities, and how to fulfill them.
- (b) Requiring all employees and newly promoted managers to receive information and training on this Policy and associated procedures within their first three months.
- (c) Requiring managers (including executives) to participate in education and/or training on this Policy and associated procedures at least every five (5) years, or whenever there are significant changes to this Policy or associated procedures.
- (d) Requiring all TDSB employees to participate in education and/or training on this Policy and associated procedures at least every five (5) years.
- (e) Ensuring that age-appropriate, accessible, user-friendly information, resources, and education about student human rights and responsibilities, and associated redress processes are provided to students on an ongoing basis, and as appropriate in response to specific incidents.
- (f) Designating a staff member or staff members, who do not report to the school administration, as Student Human Rights Advocate(s) to advise, support and help students whose human rights may have been violated at TDSB.

- (g) Ensuring that accessible, user-friendly information and resources about student human rights (including the duty to accommodate as it relates to special education) in TDSB and related policies, procedures and practices are provided to all parents at the start of each school year.

6.5.6.2 The Urban Indigenous Education Centre, guided by the TDSB Council of Elders, will designate a staff member or staff members as Indigenous Human Rights Advocate(s) to support the human rights of Indigenous, First Nations, Métis and Inuit members of the TDSB community. This position will be housed within the Urban Indigenous Education Centre and will report to the Systems Superintendent of Indigenous Education or a designate.

6.5.7. Review of Human Rights Organizational Change Program

The Board will review the Human Rights Organizational Change Program at least every five (5) years, or as needed, and consult with affected TDSB community members on any changes, as part of the review process.

6.6. Roles and Responsibilities

6.6.1. All members of the TDSB community

- (a) All members of the TDSB community are responsible for adhering to this Policy and the associated procedures, and respecting the human rights and dignity of each person within their respective sphere of interaction and influence, playing their part in the creation and maintenance of TDSB environments that are free of discrimination and harassment.
- (b) All members of the TDSB community must cooperate fully in appropriate attempts under this Policy or associated procedures to address a situation or complaint, including an investigation, to the extent of their capacity (e.g. considering age, cognitive impairment etc.) and to the extent permitted by law.

6.6.2. Employees

- (a) All employees, including those who witness incidents, should report – and in the case of situations affecting students, must report – discrimination, harassment, hate activity, and other violations of this Policy to the appropriate person (typically one’s supervisor or the next level supervisor not involved or implicated) in accordance with PR515 and PR728 and any other procedure made pursuant to this Policy.
- (b) Employees should be aware of and sensitive to issues of discrimination and harassment, and should support individuals who are, or have been, targets of discrimination and harassment.

6.6.3. Director

The Director of Education, who holds primary responsibility for implementation of this Policy, will safeguard and promote an equitable, accessible, respectful and inclusive environment free of discrimination and harassment including by:

- (a) Regularly assessing the effectiveness of measures designed to protect and advance human rights within the Board, and, when needed, revising such measures, or replacing them with new ones, in consultation with the Human Rights Office.
- (b) Taking necessary proactive steps to identify, address, and prevent systemic discrimination, and advance human rights organizational change, including by ensuring effective implementation of related program measures, as identified in section 6.5.
- (c) Ensuring the implementation of an appropriate process to identify, handle, investigate, and remedy instances, potential instances, allegations, and complaints of discrimination, harassment, poisoned environment and reprisal in a manner appropriate in the circumstances, through this Policy and the associated procedures.
- (d) Holding all TDSB members accountable for complying with this Policy and associated procedures, particularly system leaders who are directing minds of the Board.
- (e) Ensuring that the Human Rights Office is independent and impartial as it carries out its mandate, and taking reasonable measures to ensure it is seen as such by all members of the TDSB community.

- (f) Designating and preserving adequate resources for ensuring the full and proper implementation of this Policy and the associated procedures.

6.6.4. Persons in Positions of Authority

6.6.4.1 Persons in positions of authority are responsible for not only their own conduct, but also for addressing the conduct of those under their supervision. To prevent and address instances, potential instances, allegations, and complaints of discrimination, harassment, poisoned environment, hate activity, and reprisal, persons in positions of authority will:

- (a) Lead by example by not engaging in, tolerating or condoning discrimination or harassment or any other violations of this Policy.
- (b) Make all reasonable efforts to promote an environment that encourages reporting violations of this Policy.
- (c) Make all reasonable efforts to protect those under their supervision from all forms of discrimination and harassment by maintaining equitable, accessible, respectful and inclusive learning and working environments that are free of discrimination, harassment, poisoned environments, and reprisal.
- (d) Where appropriate to their position of authority, educate or provide educational opportunities for TDSB members to ensure they are aware that discrimination and harassment will not be tolerated, that they understand their rights and responsibilities as they relate to this Policy and the associated procedures, and that they understand how to report violations.
- (e) Take all instances, potential instances, and complaints of discrimination and harassment, or any other violations of this Policy, seriously, including by promptly:
 - (i) intervening when it occurs or is suspected to have occurred; and
 - (ii) making inquiries or consulting with a direct supervisor, the HRO, or other department of the Board, as appropriate, to assist in effectively managing allegations, instances, potential instances, and complaints.

6.6.4.2 Managers

In addition to the above, managers will:

- (a) Be knowledgeable of this Policy and the associated procedures.
- (b) Post this Policy and associated procedures in a conspicuous location in workplaces under their supervision where it would be likely to come to employees' attention, and make the Policy and procedures available (electronically or by hard copy).
- (c) Promptly impartially investigate allegations, instances, potential instances, and complaints of discrimination, harassment, and any other violations of this Policy, in accordance with this Policy, associated procedures, the *Code*, and where applicable the *OHSA*;
- (d) Take remedial and/or disciplinary action with any person found to have engaged in conduct in violation of this Policy.

6.6.4.3 Principals

In addition to the above, principals will:

- (a) Review this Policy and the associated procedures with school staff at the start of each school year; and
- (b) Ensure that students are provided information, resources and education specified in 6.5.6.1(e) above.

6.6.5. Human Rights Office

6.6.5.1. As TDSB's centre of human rights expertise, the HRO will:

- (a) Advise members of the TDSB community about their human rights and obligations, including by producing and disseminating user-friendly materials for display in schools, workplaces, and other TDSB environments;
- (b) Impartially and fairly investigate, resolve, mediate and address human rights complaints and incidents, including in the areas of employment and education; and
- (c) Proactively and systemically advance human rights organizational change including through:

- (i) identification of systemic human rights issues;
- (ii) professional development, education, and capacity building;
- (iii) policy and procedure review and development;
- (iv) outreach and engagement with school communities; and
- (v) research, data collection, analysis, reporting and evaluation of TDSB's performance in protecting and advancing human rights.

6.6.5.2. The HRO will function as the facilitative lead for the development, coordination and implementation of the Board-approved Human Rights Organizational Change program, pursuant to section 6.5., in collaboration with other Board Departments (e.g. Equity, Indigenous Education, Employee Services, Research, Special Education and Inclusion, Disability Management Office, Accessibility Office, Employment Equity, etc.).

6.6.5.3. The HRO may self-initiate inquiries, environmental scans or investigations where it reasonably believes that rights under this Policy may have been violated, including in the absence of a complaint.

6.7. The Duty to Accommodate

Members of the TDSB community should refer to the HRO website for guidelines or procedures connected to the duty to accommodate.

6.8. Addressing Policy Violations

Members of the TDSB community should refer to the procedures created pursuant to this Policy for information on addressing instances, potential instances, allegations, and complaints of violations of this Policy.

7.0 SPECIFIC DIRECTIVES

The Director has authority to issue operational procedures to implement this Policy.

8.0 EVALUATION

The Human Rights Policy will be reviewed as required, and at least annually, in accordance with the *Occupational Health and Safety Act*.

The HRO will implement a mechanism to receive feedback on this Policy, associated procedures, and human rights organizational change initiatives on an ongoing basis.

In recognition of Truth and Reconciliation principles, the HRO will specifically invite feedback from: the Urban Indigenous Community Advisory Committee with the guidance of the TDSB Council of Elders; the Urban Indigenous Education Centre; and Indigenous, First Nations, Métis, and Inuit members of the TDSB community.

Appropriate Policy revisions will be considered for implementation during the yearly review process.

9.0 APPENDICES

- Not Applicable

10.0 REFERENCE DOCUMENTS

Ontario Human Rights Commission Policies

For additional information, reviewing policies developed by the Ontario Human Rights Commission is encouraged, including:

- [Policy on ableism and discrimination based on disability](#)
- [Policy on accessible education for students with disabilities](#)
- [Policy guidelines on racism and racial discrimination](#)
- [Policy on preventing discrimination based on creed](#)
- [Policy on preventing discrimination based on gender identity and gender expression](#)

Policies

- Acceptable Use of Information Technology Resources (P088)
- Accessibility (P069)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Dealing with Abuse and Neglect of Students (P045)
- Equity (P037)
- Gender-Based Violence (P071)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Respectful Learning and Working Environment (P073)
- Workplace Harassment Prevention for Non-Human-Rights-Code Harassment (P034)
- Workplace Violence Prevention (P072)

Procedures

- Abuse and Neglect of Students (PR560)
- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Code of On-line Conduct (PR571)
- Complaint Protocol for the Board Member of Conduct (PR708)
- E-mail Usage (PR572)
- Police-School Board Protocol (PR698)
- Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools (PR728)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights Procedure (PR515)
[Note: currently under review]

Legislation

- *Canadian Charter of Rights and Freedoms*
- *Education Act*
- *Occupational Health and Safety Act*
- *Ontario Human Rights Code*

~~i. Toronto District School Board~~

~~Policy P.031 EMP: Human Rights~~

Toronto District School Board

~~1.0 POLICY P.031 EMP: HUMAN RIGHTS~~

Statement

Policy P031

Title: HUMAN RIGHTS

Adopted: May 3, 2000

Effectuated: May 3, 2000

Revised: May 19, 2004; [New Date]

Reviewed: May 19, 2004 [date when the policy was reviewed]

Authorization: Board of Trustees

1.0 RATIONALE

The Toronto District School Board ~~is committed to maintaining a learning and working environment which actively promotes and supports human rights. The Board recognizes the value of:~~

- ~~• each and every student;~~
- ~~• a strong public education system;~~
- ~~• a partnership of students, schools, family and community;~~
- ~~• the uniqueness and diversity of our students and our community;~~
- ~~• the commitment and skills of our staff;~~

~~Human Rights~~

~~Adoption Date: May 3, 2000 Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031Page~~ **Revision Date: May 19, 2004** Page 1 of

35

i. ~~Toronto District School Board~~

~~Policy P.031 EMP: Human Rights~~

- ~~• equity, innovation, accountability and accessibility;~~
- ~~• learning environments that are safe, nurturing, positive and respectful.~~

~~1.0~~

~~The Toronto District School Board is committed to meeting its obligation under the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code by providing safe schools and workplaces that respect the rights of every individual. Every student, employee, trustee, parent and community member has the right to learn and work in an environment free of discrimination and harassment. Discrimination and harassment based on legislated prohibited grounds will not be tolerated. Such behaviour must be addressed not only for its cost in individual, human terms but also for its cost to our social, economic and civic future.~~

~~The purpose of this policy is to prevent discrimination and harassment through greater awareness of and responsiveness to their deleterious effects and to ensure that human rights complaints are dealt with expeditiously and effectively through consistently applied policy and procedures. Nothing in this policy or procedures denies or limits access to other avenues of redress open under the law such as a complaint to the Ontario Human Rights Commission or a grievance.~~

~~The Toronto District School Board is committed to ensuring that education on human rights issues is provided for all staff and students.~~

~~Human Rights~~

~~Adoption Date: May 3, 2000 Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031Page~~ **Revision Date: May 19, 2004** Page 2 of

35

G02(R:\Secretariat\staff\g02\project\webpol\P031-EMP.doc)sec.1530

~~i. Toronto District School Board~~

~~Policy P.031 EMP: Human Rights~~

~~Policy Components~~

~~1. Legislative Context~~

~~1.1. Canadian Charter of Rights and Freedoms~~

~~The *Constitution Act [1982]*, which includes the Canadian Charter of Rights and Freedoms, is the supreme law of Canada. As such, all other laws and applicable workings of governments, including school boards, must be consistent with its provisions. The charter and Supreme Court of Canada decisions made under the charter guarantee everyone equality regardless of race, national or ethnic origin, citizenship, colour, religion, marital status, sex, sexual orientation, age or mental or physical disability. The charter and Supreme Court decisions also promote the development of programs which are designed to redress the conditions of disadvantaged individuals or groups.~~

~~1.2. Ontario Human Rights Code~~

~~The provisions of the Ontario Human Rights Code apply to private parties and provincial public institutions. The code exists to prevent discrimination and harassment and, through its special program provisions, to foster proactive steps to promote human rights. Human rights law prohibits the creation and/or fostering of negative or poisoned environments that threaten basic human rights.~~

~~2. To (“TDSB”) acknowledges and seeks to dismantle Whom Does This Policy Apply?~~

~~This policy applies to all Toronto District School Board students, employees, trustees and other users such as members of consultative committees, clients of the Board, parents, volunteers, permit holders, contractors, and employees of organizations not related to the Board but who nevertheless work on or are invited onto Board premises. This policy also covers discrimination and harassment by such persons which occur outside the study/work place, and which are proven to have repercussions that adversely affect the Board’s learning/working environment.~~

~~3. Duties and Responsibilities~~

~~A school board has a duty to maintain an environment respectful of human rights and free of discrimination and harassment for all persons served by it. It must be ever vigilant of anything that might interfere with this duty. In fostering this environment, the Board expects that everyone will:~~

~~Human Rights~~

~~Adoption Date: May 3, 2000 Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031 Page Revision Date: May 19, 2004 Page 3 of~~

~~35~~

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

- ~~• be aware of and sensitive to issues of discrimination and harassment~~
(a) ~~support individuals who are, or have been, targets of discrimination and harassment.~~
- ~~• prevent discrimination and harassment~~ colonial structures
take reasonable steps to remove any discriminatory barriers in employment policies and practices and recognizes the devastating and ongoing impacts of colonization on First Nations, Métis, and Inuit people. in accessing programs, resources, and facilities

It is recognized and acknowledged that many members of the TDSB community continue to experience exclusion and marginalization, including racism, anti-Indigenous racism, anti-Black racism, ableism, sexism, transphobia & cissexism (discrimination and prejudice on the basis of gender identity), homophobia, and other forms of marginalization and prejudice.

TDSB recognizes that sustained measures, both proactive and reactive, are required to eradicate discrimination and to ensure that all members of the TDSB community are included, welcomed, and feel valued in all TDSB environments.

The Human Rights Policy (the "Policy") affirms and supports the TDSB's commitment to defending, upholding and promoting human rights in all learning and working environments for the benefit of all members of the TDSB community. This Policy supports the implementation of TDSB obligations under the Ontario Human Rights Code, the Education Act, the Canadian Charter of Rights and Freedoms, and the Occupational Health and Safety Act.

- ~~• OBJECTIVE~~ take all allegations of discrimination and harassment seriously and respond promptly
- ~~• provide positive role models~~
- ~~• not demonstrate, allow or condone behaviour contrary to this policy, including reprisal~~
- ~~• report immediately hate group activity~~

Human Rights

~~Adoption Date: May 3, 2000~~ Policy P.031 EMP

R:\Secretariat\Staff\G02\03\Pol\P031 Page ~~Revision Date: May 19, 2004~~ Page 4 of

35

~~i. Toronto District School Board~~

~~Policy P.031 EMP: Human Rights~~

~~3.1. Human Resource Services~~

~~The Human Resource Services Department of the Toronto District School Board has the responsibility to designate resources for ensuring the implementation of and compliance with this policy and procedures.~~

~~3.2. Teachers~~

~~Teachers have a particular obligation to ensure that the learning environment is free of discrimination and harassment and to respond speedily to breaches of this policy when they occur. The Board recognizes that preventive education and proactive practices are the best long-term strategies to achieve an inclusive learning and working environment. It is essential, therefore, that Toronto District School Board programs, curriculum, teaching methods and management practices support the values embodied in this policy.~~

~~3.3. Supervisory and Managerial Personnel~~

~~Supervisory and managerial personnel have a specific duty to implement the policy. This duty includes prevention of and response to discrimination and harassment and the education of staff, students and the school community.~~

~~Failure to take measures to address discrimination and harassment in the learning and working environment may have legal implications for the Board.~~

~~4. Grounds and Forms of Discrimination~~

~~4.1. Grounds of Discrimination~~

~~Under this policy, the Board upholds and supports the right to equal treatment without discrimination based on the following prohibited grounds:~~

2.0

The objectives of the Policy are:

- To protect, promote and advance the human rights of all TDSB members (see definition below) to learn, function and work in an equitable, accessible, respectful and inclusive environment free of discrimination and harassment on the basis of the protected grounds of discrimination specified in this Policy and protected under the ~~Age~~
- ~~Ancestry~~

~~Human Rights~~

~~Adoption Date: May 3, 2000 Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031 Page Revision Date: May 19, 2004 Page 5 of~~

~~35~~

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

- ~~Citizenship~~
- ~~Colour~~
- ~~Creed (faith)~~
- ~~Disability~~
- ~~Ethnic origin~~
- ~~Family status~~
- ~~Gender~~
- ~~Gender identity~~
- ~~Marital status~~
- ~~Place of origin~~
- ~~Race~~
- ~~Same-sex partnership status~~
- ~~Sexual orientation~~
- ~~Socio-economic status~~

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy ~~P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ Page ~~Revision Date: May 19, 2004~~ Page 6 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

4.2. Forms of Discrimination

- ~~Discrimination is defined as unfair treatment of a person or group based on the grounds listed above. Discrimination can occur in many ways.~~ Ontario Human Rights Code.

~~To ensure TDSB meets its positive human rights obligations, including to proactively identify, address, and prevent all forms of the following:~~

- ~~Direct discrimination, including individual and systemic: Any action from individuals, groups or organizations, whether intended or unintended, which differentiates between persons based on their membership in a protected group as set out in this policy other than special programs designed to address the conditions of individuals or groups~~
- ~~Indirect discrimination.~~

3.0 DEFINITIONS

For the purposes of this Policy:

Accommodation – see below under “Duty to Accommodate”.

Allegation means an unproven claim or assertion that someone has violated this Policy.

Board means Toronto District School Board, which is also referred to as “TDSB.”

Code means the Ontario Human Rights Code.

- ~~Condonation means the practice – or condonation: Occurring when discrimination and harassing behaviour are either overlooked or accepted particularly on the part of a person by supervisory or managerial personnel~~
- ~~Systemic discrimination: Arising from policies, procedures, practices and conduct which may not be discriminatory in their intent but adversely impact individuals or groups protected by this policy where the adverse impact arises from one of the prohibited grounds of discrimination~~

~~Harassment: A form of discrimination defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be~~

~~Human Rights~~

~~Adoption Date: May 3, 2000 — Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031 Page 7 of 7~~ **Revision Date: May 19, 2004**

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

~~unwelcome. Sexual harassment is a particular form of harassment. It can take the form of a sexual advance, request for sexual favours or sexual flirtation or banter made by any person, including a person in a position of authority – of overlooking, downplaying, accepting and/or failing to respond to discriminatory behaviour, to grant, confer or deny a benefit, privilege, or advancement, where the person engaging in such conduct knows, or ought reasonably to know, that it is unwelcome. Sexual attention by an employee toward a student is unacceptable under any circumstances and shall constitute a violation of this policy~~

~~Directing Minds means employees with supervisory authority who function, or are seen Failure to function, as representatives of an organization. Persons who are not identified as supervisors per se may be directing minds if they have supervisory authority or have significant responsibility for the guidance of employees.~~

~~Discrimination means adverse treatment in a TDSB environment that is unfair based on one or more protected grounds; or treatment that results in disadvantage, violates dignity, or perpetuates prejudice against a person or group in a TDSB environment in relation to one or more protected grounds. Discrimination can be direct or indirect, individual or systemic (see definition below), and need not be intended. It also includes hate activity in TDSB environments.~~

~~Intersectional discrimination is a form of discrimination that occurs based on two or more Code grounds that produce a unique and distinct form and experience of discrimination that cannot be reduced to any single Code ground. The concept of intersectional discrimination recognizes that people may have multiple overlapping identities, and that marginalization, exclusion and discrimination may be further exacerbated because of how these identities interact or “intersect.”~~

~~Discrimination does not include the existence of measures designed to relieve disadvantage or systemic discrimination, or to assist persons or groups who experience disadvantage to achieve or attempt to achieve equal opportunity.~~

~~Duty to Accommodate means the legal obligation to make adjustments, provide support, or make exceptions in order to avoid discrimination on the basis of a protected ground so as to ensure fair and equitable access, treatment, and inclusion, and for individuals to be able to participate equally and perform to the best of their abilities in the learning environment, workplace, or other TDSB environment.~~

~~Human Rights~~

~~**Adoption Date:** May 3, 2000 — Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031Page **Revision Date:** May 19, 2004 Page 8 of~~

~~35~~

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

reasonably

- The duty to accommodate may require making adjustments to or exceptions to policies, procedures, programs, guidelines, practices, physical settings, requirements, or criteria in keeping with the principle of the primacy of the Code.
- If a person in a position of authority has information or has made observations that suggests there may be a need for accommodation, that person is under a duty to make reasonable inquiries into whether an accommodation may be required.
- When there is a duty to accommodate, accommodation is required up to the point a person ~~short~~ of undue hardship, which is a very high threshold.
- The procedural duty to accommodate requires that the accommodation process be transparent, collaborative and respectful. Requests for accommodation cannot be ignored.

Employee includes any person who is an “employee” under the Code. It also includes any person who is a “worker” under the Occupational Health and Safety Act including, but not limited to: full-time, part-time, regular, temporary, and probationary employees; co-op students; and contract employees.

Harassment means a course of vexatious comment or conduct in a TDSB environment, based on a protected ground, which is known, or ought reasonably to be known, to be unwelcome, and includes sexual harassment. Harassment is a form of discrimination. It is usually the result of a series of incidents (“a course” of comment or conduct) but may also result from one very serious incident. (Note: non-Code workplace harassment, which is not based on a protected ground, is on any of the grounds covered under the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy [P034].)

Hate Activity means a hate crime or a hate incident.

Hate Incident means non-criminal conduct that is motivated in whole or in part by hatred against an individual or group on the basis of a protected ground. A hate incident can encompass situations in which the conduct is directed against people associated with individuals or groups identified with the protected grounds. The conduct can be verbal, nonverbal or written, and may manifest itself in the

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ Page ~~Revision Date: May 19, 2004~~ Page 9 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

form of slurs, insults, harassment, abusive gestures, taunting, display of offensive materials or hate symbols, or other acts which may intimidate, degrade and/or marginalize the targeted individual or group.

Hate Crime means a criminal offence that is committed against a person or property, and which is motivated in whole or in part by hatred or bias based on race, national or ethnic origin, language, colour, creed, religion, sex, age, mental or physical disability, sexual orientation, gender identity, or gender expression. This includes, but is not limited to, hate-motivated violence, incitement to hate-motivated violence, and/or the display of symbols or other representations identified with groups promoting hate and violence. It also includes such crimes committed against a person who is associated, or perceived to be associated, with individuals or groups identified with one of the aforementioned Code-protected grounds.

HRO means the Human Rights Office.

Instance includes an incident, event, ongoing situation, circumstance, environment, practice, ~~this policy~~, procedure, rule, directive, etc. that gives rise to a breach of this Policy. The term “potential instance” refers to knowledge, including based on rumour, report, or reasonable suspicion, that warrants investigation to ascertain whether a violation of this Policy has occurred.

Learning Environment means any land, premises, location, event or thing at, upon, or in which a TDSB student or TDSB member (see definition below) learns or engages in activities connected to the learning environment (e.g. parent engagement/parent council activity etc.). This includes virtual/online environments. Conduct that has consequences for the learning environment, regardless of where it occurs, may be considered to have occurred in the learning environment.

Manager means a supervisor or a directing mind as defined in this Policy.

OHSA means the *Occupational Health and Safety Act*. The *OHSA* prohibits all workplace harassment even if not on the basis of a protected ground. This Policy implements *OHSA* requirements with regard to workplace harassment on the basis of a protected ground. The Workplace Harassment Prevention for Non—Human-Rights-Code Harassment Policy (P034) implements the *OHSA*

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ ~~Page~~ ~~Revision Date: May 19, 2004~~ ~~Page~~ 10 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

requirements with regard to workplace harassment that is not based on a protected ground.

Parent means a parent, guardian or any other caregiver legally recognized as acting in place of the parent.

Person in a Position of Authority means a manager, or a person with authority over students (eg. teachers, educational assistants, school-based safety monitors, child and youth workers, designated early childhood educators, lunchtime supervisors, bus drivers, office support staff, etc.).

Poisoned Environment means a TDSB environment that is oppressive, negative, hostile, unwelcoming, or non-inclusive as a result of vexatious behavior that is based on a protected ground and that is known, or ought reasonably to be known, to be unwelcome. The vexatious behaviour or conduct does not need to be directed toward any person or group in particular. A poisoned environment may result from a series of incidents or a single serious incident, condonation of such behavior, and/or the failure to adequately remedy and restore the environment following the incident(s).

Positive Human Rights Obligations, also called “positive obligations”, mean organizational duties which entail taking active steps to safeguard and advance human rights. Examples of positive obligations include: conducting training; monitoring human rights compliance through data collection, analysis and reporting; and other affirmative measures aimed at preventing human rights violations and fostering a culture of human rights, even in the absence of complaints.

Protected Ground means the grounds upon which discrimination is prohibited under the Ontario Human Rights Code and this Policy. The grounds are:

- Age (an age that is 18 years or more)
- Ancestry
- Citizenship
- Colour
- Creed (includes but is not limited to religion and Indigenous spirituality)
- Disability (includes mental, physical, perceived)
- Ethnic origin
- Family status (includes child, adoptive, elder relationships)
- Gender expression

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ ~~Page~~ ~~Revision Date: May 19, 2004~~ ~~Page~~ 11 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

- Gender identity
- Marital status (including single, separated, widowed, common law and co-
vers same and opposite sex relationships)
- Place of origin
- Race
- Sex (includes pregnancy and breastfeeding)
- Sexual orientation
- Socio-economic status*
- Record of offences (in employment only)
- Association ~~Discrimination against individuals because of their relationship or
association with a person or persons identified by a prohibited ground listed
above~~

*Note: Socio-economic status is a protected ground of discrimination under this Policy, but not under the Code. policy.

Treatment that occurs as a result of perceived membership in a protected group is also protected.

RBH Portal means the Racism, Bias and Hate online reporting portal, a system which enables detailed incident reporting on racism and hate incidents involving or impacting students in schools, as governed by the procedure for Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools (PR728). It also provides a record of responses to such incidents, in the form of action plans and communication strategies, while allowing for the identification of any potential lessons learned, good/best practices, future preventative measures required, and any other systemic considerations.

Reprisal means adverse action or threat of adverse action against an individual that is in retaliation:

- (a) for, in good faith, raising concerns or claiming or enforcing a right under this Policy or associated procedures or supporting or assisting someone to do so;
- (b) for participating in a process to address a matter under this Policy or associated procedures; or
- (c) on the basis of a belief that the individual has engaged in (a) or (b).

Adverse action in the above definition could include, for example:

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy P.031 EMP

~~R:\Secretariat\Staff\G02\03\Pol\P031Page~~ **Revision Date: May 19, 2004** Page 12 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

- disciplining, suspending, dismissing, or expelling;
- intimidating or coercing someone not to report a situation;
- changing an employee's position, shift, work location, work assignments or the nature of their work;
- moving a student to a different class;
- unfair grading;
- reducing or changing an employee's hours;
- denying a promotion; or
- harassing or discriminating.

Sexual Harassment means:

- (a) engaging in a course of vexatious comment or conduct because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome;
- (b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance; or
- (c) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. This creates a higher standard for those in positions of power because the solicitation or advance does not have to be "a course of conduct" or "egregious." Where the unwanted sexual solicitation or advance is from a person not in a position of authority, the usual test of "course of conduct" or "single egregious incident" applies.

Sexual Harassment also includes cyber sexual harassment.

Student means a person who is enrolled at TDSB and includes an adult.

Supervisor means an employee who exercises managerial/supervisory authority in relation to other employees or volunteers.

Systemic Discrimination means patterns of behaviour, policies and/or practices that are part of administrative structures or informal culture within TDSB, and that create or perpetuate disadvantage for individuals or groups on the basis of a protected ground.

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ ~~Page~~ ~~Revision Date: May 19, 2004~~ ~~Page~~ 13 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

TDSB means Toronto District School Board, which is also referred to as the “Board.”

TDSB Environment includes a TDSB learning or working environment, as defined in this Policy, and includes:

- TDSB owned or operated places, Board premises, offices, and facilities (including eating, lounge/changing areas and vehicles used for TDSB purposes or on TDSB property);
- schools and school-related activities;
- Board-related functions, activities, or events;
- online environments;
- activities, including electronic messages and postings on electronic and social media, which have significant negative consequences for the TDSB environment; and
- all applicable social areas (eg. employment; goods, services, and facilities; and contracts) protected by the Code.

TDSB Member/Member of the TDSB Community means, but is not limited to, students, parents/guardians, employees, job applicants, trustees, committee members, school/parent council members, permit holders (including organizations who use Board facilities), vendors, service providers, contractors, volunteers, visitors, customers of the Board, bargaining agents and associations, and all other persons who are invited to, work in, or are permitted to attend or participate in TDSB environments.

Vexatious means comment or conduct that is inappropriate or unnecessary and that a TDSB member experiences as offensive, embarrassing, humiliating, distressing or demeaning.

Workplace/Working Environment means any land, premises, location or thing at, upon, in or near which an employee works, in keeping with the definition in the OHSA. For the purpose of this Policy, it also includes any place where individuals perform work or work-related duties or functions. Schools and school-related activities, such as extra-curricular activities and excursions comprise the workplace, as do Board offices and facilities (including eating, lounge or changing areas, and vehicles used for work purposes or on work property). Conferences, workshops, training sessions and staff functions (for example, staff parties and retirement celebrations) and job competitions also fall within the scope of this Policy.

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ ~~Page~~ ~~Revision Date: May 19, 2004~~ ~~Page~~ 14 of

35

~~i. Toronto District School Board~~

Policy P.031 EMP: Human Rights

Regardless of where it occurs, conduct that has work-related consequences may be considered to have occurred in the workplace. Phone calls, electronic messages, and postings on electronic and social media may form part of the workplace.

4.0 RESPONSIBILITY

The Director of Education holds primary responsibility for implementation of this Policy.

Within the Director's Office, the responsibility for coordination and day to day management of the Policy is assigned to the Executive Superintendent, Human Rights and Indigenous Education.

5.0 APPLICATION AND SCOPE

This Policy applies to all students, employees, and other members of the TDSB community in TDSB environments.

The Policy prohibits discrimination and harassment on the basis of the protected grounds and covers all Code protections applicable to the TDSB environment. It also prohibits hate activity.

Harassment that is not related to a protected ground does not fall under this Policy but may fall under other Board policies such as the Code of Conduct (P044). Workplace harassment that is not related to a protected ground falls under the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034).

6.0 POLICY

- ~~• 6.1. Policy Reprisals which may include threats, intimidation, denial of opportunity or undue negative focus on the rights of individuals or groups who claim and enforce their rights under this policy.~~
- ~~• Negative or "poisoned" environments created and fostered by acts or omissions that maintain offensive or intimidating climates for study or work. Poisoned learning environments include inappropriate or non-inclusive curriculum and pedagogy, bias or discriminatory barriers in existing policies, programs, or~~

~~Human Rights~~

~~Adoption Date: May 3, 2000 Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031Page Revision Date: May 19, 2004Page 15 of~~

~~35~~

i. ~~Toronto District School Board~~

~~Policy P.031 EMP: Human Rights~~

~~assessment procedures, and discriminatory comments made by teachers and other employees. Poisoned working environments thrive where there is managerial or supervisory condonation of discriminatory or harassing behaviour. Poisoned environments can also be created where there is inattention to fair and equitable recruitment and employment policies, practices and procedures.~~

- ~~• Hate group activities~~

~~Human Rights~~

~~Adoption Date: May 3, 2000 Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031Page~~ **Revision Date: May 19, 2004** ~~Page 16 of~~

~~35~~

~~G02(R:\Secretariat\staff\g02\project\webpol\P031-EMP.doc)sec.1530~~

i. ~~Toronto District School Board~~

~~Policy P.031-EMP: Human Rights~~

~~5. Hate Group Activities~~

~~Hate group activities represent some of the most destructive forms of human rights-based discrimination by promoting hatred against identifiable groups of people. Hate groups generally label and disparage people who may include immigrants, people with disabilities, members of particular racial, religious or cultural groups, people who are gay or lesbian. Hate group activities will not be tolerated. Such activities contravene this policy, and other potential board policies related to school safety and may also contravene the Criminal Code of Canada.~~

~~6. Complaints~~

~~All those who are covered by this policy are entitled and encouraged to complain about discrimination and harassment and are entitled to have access to the complaint procedures. In addition, nothing in these procedures precludes individuals who believe they are targets of (or have witnessed) discrimination and harassment from directly expressing that the behaviour is inappropriate and must stop immediately. Many complaints can be resolved quickly and effectively using this approach. In order to stop discrimination and harassment, supervisory and managerial personnel must expeditiously address and attempt to resolve complaints under this policy and procedures.~~

Statement

6.1.1. The TDSB is committed to safeguarding, advancing and proactively promoting the right of every student, employee and TDSB member to learn, function and work in an equitable, accessible, respectful and inclusive environment free of discrimination and harassment.

6.1.2. All forms of discrimination and harassment based on a protected ground are strictly prohibited in TDSB environments, in fulfillment of legal obligations under the Ontario *Human Rights Code*, the *Canadian Charter of Rights and Freedoms*, the *OHSA* and in accordance with international human rights covenants, conventions, treaties and declarations to which Canada is a signatory, including the United Nations Declaration on the Rights of Indigenous Peoples.

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ ~~Policy P.031-EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031 Page~~ ~~Revision Date: May 19, 2004~~ ~~Page 17 of~~

~~35~~

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

6.1.3. The Board will not tolerate, condone or ignore discrimination, harassment or hate activity in its schools, facilities, workplaces or other TDSB environments.

6.1.4. The Board will take every reasonable step to:

- Prevent discrimination, harassment and hate activity and to cultivate and sustain equitable, accessible, respectful and inclusive learning, working, and other TDSB environments free of discrimination and harassment.
- Treat allegations of discrimination or harassment seriously, and appropriately address them in a timely, fair, proportionate manner, in accordance with this Policy, the applicable procedures and applicable law, with the aim of preserving the dignity, respect and rights of all parties.
- Promote awareness of human rights and responsibilities.
- Restore learning, working, and other TDSB environments affected by discrimination, harassment or hate.
- Fulfill its duty to accommodate persons based on a protected ground, up to the point of undue hardship, in accordance with its legal obligations, including under the Code.

6.2. Principles

In fulfilling its positive human rights obligations and commitments to protect and advance human rights, TDSB will:

- (a) Recognize and give life to the primacy of the *Human Rights Code* over policy, procedure, directives, rules, practices, contractual agreements, and over other legislation as specified in s. 47(2) of the *Code*.
- (b) Function in a proactive, systemic, and informed manner (based on evidence when available) so that the Board may take necessary steps to prevent and avert violations of this Policy and be actively alert to emerging issues, systemic trends and conditions that may potentially

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ Page ~~Revision Date: May 19, 2004~~ Page 18 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

contribute to discriminatory outcomes, rather than only waiting for breaches of human rights to occur or become apparent before being addressed.

- (c) Recognize that fostering and sustaining an equitable, accessible, respectful and inclusive environment free of discrimination and harassment is integral to the fulfillment of all TDSB roles and functions, and is a shared responsibility requiring the cooperation of all TDSB members.
- (d) Cultivate public trust and accountability, including being transparent with the communities we serve, through public reporting and engagement around human rights issues and outcomes at the Board, and other appropriate measures.
- (e) Interpret and apply this Policy harmoniously with the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples, in recognition of Indigenous sovereignty, and in keeping with the principles set out in *What We Have Learned: Principles of Truth and Reconciliation* by the Truth and Reconciliation Commission of Canada.
- (f) Interpret and apply this Policy harmoniously with the spirit and intent of the Board's Equity Policy (P037), and the Board's commitments to principles of anti-racism and anti-oppression, and will not interpret or apply this Policy in a manner that undermines the values or rights reflected therein.

6.3. Policy Violations

Engaging in discrimination, harassment or hate activity of any kind is a violation of this Policy. Behaviours and practices in TDSB environments that are contrary to this Policy include, but are not limited to, the following examples:

(a) discrimination;

(b) harassment including sexual harassment;

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy ~~P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~Page ~~Revision Date: May 19, 2004~~Page 19 of

35

G02(R:\Secretariat\staff\g02\project\webpol\P031-EMP.doc)sec.1530

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

- (c) creating or contributing to a poisoned environment;
- (d) hate activity;
- (e) failure of a person in a position of authority to respond appropriately and expeditiously to allegations, instances, potential instances or complaints of discrimination, harassment, poisoned environment, or reprisal;
- (f) failure of management to identify, address, or remove systemic discrimination;
- (g) interference with an investigation under this Policy, including but not limited to intimidating any person involved in the investigation, or influencing a person to give false or misleading information;
- (h) reprisal;
- (i) bad faith allegations, complaints, or accusations (e.g., submitting a complaint knowing there has been no violation of this Policy);
- (j) purposefully or recklessly providing false or misleading statements or information to an investigator investigating a matter under this Policy;
- (k) failure to adhere to the confidentiality provisions set out in the procedures made pursuant to this Policy; and
- (l) failure to fulfill the procedural or substantive duty to accommodate under the Code, including failure to offer effective or appropriate accommodation up to the point of undue hardship.

6.4. Consequences for Policy Violations

Action may be taken with any TDSB member who fails to abide by the requirements set out in this Policy and associated procedures, including but not limited to performance management, remedial action or discipline up to and including termination of employment, suspension or expulsion from educational services, or removal from or denial of access to TDSB institutional spaces and

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ ~~Page~~ ~~Revision Date: May 19, 2004~~ ~~Page~~ 20 of

35

~~i. Toronto District School Board~~

Policy P.031 EMP: Human Rights

facilities, in accordance with applicable law, the remedial purpose of the Code, and where appropriate, principles of progressive discipline.

Note: Remedial action for persons who are not employees is taken after consultation with the Legal Services Department and/or Safe Schools Department and/or applicable superintendent, as appropriate. This may result in, but is not limited to, denial of access to Board premises or issuance of trespass notices. Remedial or disciplinary action for employees must be done in consultation with Employee Services, and a disciplinary review committee as required in accordance with procedure made pursuant to this Policy.

6.5. Human Rights Organizational Change Program

6.5.1. In keeping with TDSB's positive obligations, the TDSB will create and maintain a systemically focused and proactive Human Rights Organizational Change Program that will aim to prevent discrimination and harassment and enable, support and advance the creation and preservation of a transformational culture of human rights at the TDSB in which all members of the TDSB community:

- equitably flourish with dignity and respect; and
- achieve equitable outcomes in TDSB learning and working environments, free from discrimination and harassment.

6.5.2. The program will include, but not necessarily be limited to, the following, as further specified in section 6.5.3 to 6.5.7 below:

- (a) A process to identify, remove and prevent potential systemic forms of discrimination, whether by virtue of acts of commission or omission, in TDSB policies, procedures or practices;
- (b) A performance management framework that integrates and embeds accountability for human rights across the organization, including in hiring and promotion decisions;
- (c) Data collection, analysis and reporting to measure and evaluate TDSB's progress in protecting and advancing human rights, and to inform appropriate remedial and preventive systemic interventions; and

~~Human Rights~~

~~Adoption Date: May 3, 2000 — Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031Page Revision Date: May 19, 2004Page 21 of~~

~~35~~

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

(d) Information, learning and awareness to ensure TDSB members are aware of their rights and responsibilities under this Policy and have the necessary knowledge, skills and competencies to exercise those rights and to fulfill those responsibilities.

6.5.3. Review of Policies, Procedures and Practices

(a) The TDSB will review policies, procedures and practices, and revise or develop these whenever necessary to ensure compliance with this Policy.

(b) The HRO will develop and implement a Human Rights Impact Assessment (HRIA) framework to be used in identifying, assessing, mitigating, remedying or preventing systemic discrimination, including as this manifests in policies, practices, or procedures, or the lack thereof.

(c) The HRO may initiate a Human Rights Impact Assessment of a TDSB policy, practice or procedure, or lack thereof, where it believes there may be a significant discriminatory effect. In conducting the HRIA, the HRO will consider the potential extent and depth of adverse impacts and outcomes on protected grounds, and offer recommendations to eliminate and prevent these.

(d) TDSB members must comply with HRO requests for information for the purposes of Human Rights Impact Assessments (unless deemed legally privileged and confidential). The HRIA process may include inviting public input from affected members of the community.

(e) The results of Human Rights Impact Assessments will be posted publicly on a Board website or referenced in the HRO's Annual Human Rights Report (see section 6.5.5.3 below).

6.5.4. Performance Management and Accountability

The following measures will be developed and implemented:

(a) The TDSB will ensure that human rights competencies are evaluated as a standalone competency in the context of performance

Human Rights

~~Adoption Date: May 3, 2000~~ Policy P.031 EMP

R:\Secretariat\Staff\G02\03\Pol\P031 Page ~~Revision Date: May 19, 2004~~ Page 22 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

appraisals and in hiring and promotion decisions for system leaders, administrators, teachers, and other employees who undergo applicable performance appraisals. This competency will have increasing degrees of weight and consideration for managers, according to their power and supervisory authority, owing to their additional corporate responsibilities to protect and advance human rights in areas under their supervision. For positions involving direct responsibility for or engagement with students, it will be a primary and necessary competency and a required qualification.

(b) Violations of human rights will be tracked and considered in employment hiring and promotion decisions.

(c) The TDSB will incentivize system leaders to advance human rights organizational change, including by recognizing and rewarding excellence in safeguarding and promoting human rights.

6.5.5. Data Collection, Analysis and Reporting

6.5.5.1. Recognizing the value of quantitative and qualitative data for evaluating human rights compliance and progress, identifying human rights issues and trends, and informing appropriate evidence-based, remedial or preventative interventions, TDSB Senior Team members will, at least annually, analyze and review the results of relevant existing human rights data including as collected through the RBH Portal, HRO inquiry and complaint process, the Student and Parent Census, the Staff Census & Well-Being Survey, and school climate surveys.

6.5.5.2. The HRO will consider and, where appropriate, develop in collaboration with other Board departments, additional human rights data collection tools and indicators to gather the perspectives/experiences of students, parents, employees and other TDSB members.

6.5.5.3. The HRO will produce an Annual Human Rights Report for the Board of Trustees including the above de-identified data findings. The report will also include disaggregated data findings, based on the protected grounds, in order to identify inequalities and areas where concerted effort

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ Page ~~Revision Date: May 19, 2004~~ Page 23 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

is needed to close human rights gaps. This Report will be released publicly including by posting it on a TDSB website.

6.5.6. Information, Learning and Awareness

6.5.6.1 The Board will develop and implement measures to build TDSB members' capacity to promote an equitable, accessible, respectful and inclusive environment free of discrimination and harassment including by:

- (a) Making accessible, user-friendly information and instruction available to ensure TDSB members are aware of their human rights and responsibilities, and how to fulfill them.
- (b) Requiring all employees and newly promoted managers to receive information and training on this Policy and associated procedures within their first three months.
- (c) Requiring managers (including executives) to participate in education and/or training on this Policy and associated procedures at least every five (5) years, or whenever there are significant changes to this Policy or associated procedures.
- (d) Requiring all TDSB employees to participate in education and/or training on this Policy and associated procedures at least every five (5) years.
- (e) Ensuring that age-appropriate, accessible, user-friendly information, resources, and education about student human rights and responsibilities, and associated redress processes are provided to students on an ongoing basis, and as appropriate in response to specific incidents.
- (f) Designating a staff member or staff members, who do not report to the school administration, as Student Human Rights Advocate(s) to advise, support and help students whose human rights may have been violated at TDSB.

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy P.031 EMP

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ Page ~~Revision Date: May 19, 2004~~ Page 24 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

(g) Ensuring that accessible, user-friendly information and resources about student human rights (including the duty to accommodate as it relates to special education) in TDSB and related policies, procedures and practices are provided to all parents at the start of each school year.

6.5.6.2 The Urban Indigenous Education Centre, guided by the TDSB Council of Elders, will designate a staff member or staff members as Indigenous Human Rights Advocate(s) to support the human rights of Indigenous, First Nations, Métis and Inuit members of the TDSB community. This position will be housed within the Urban Indigenous Education Centre and will report to the Systems Superintendent of Indigenous Education or a designate.

6.5.7. Review of Human Rights Organizational Change Program

The Board will review the Human Rights Organizational Change Program at least every five (5) years, or as needed, and consult with affected TDSB community members on any changes, as part of the review process.

6.6. Roles and Responsibilities

6.6.1. All members of the TDSB community

(a) All members of the TDSB community are responsible for adhering to this Policy and the associated procedures, and respecting the human rights and dignity of each person within their respective sphere of interaction and influence, playing their part in the creation and maintenance of TDSB environments that are free of discrimination and harassment.

(b) All members of the TDSB community must cooperate fully in appropriate attempts under this Policy or associated procedures to address a situation or complaint, including an investigation, to the extent of their capacity (e.g. considering age, cognitive impairment etc.) and to the extent permitted by law.

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy P.031 EMP

~~R:\Secretariat\Staff\G02\03\Pol\P031Page~~ **Revision Date: May 19, 2004** Page 25 of

35

~~i. Toronto District School Board~~

~~**Policy P.031 EMP: Human Rights**~~

~~Human Rights~~

~~**Adoption Date: May 3, 2000** Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031Page **Revision Date: May 19, 2004**Page 26 of~~

~~35~~

~~G02(R:\Secretariat\staff\g02\project\webpol\P031-EMP.doc)sec.1530~~

~~i. Toronto District School Board~~

Policy P.031 EMP: Human Rights

6.6.2. Employees

(a) All employees, including those who witness incidents, should report – and in the case of situations affecting students, must report – discrimination, harassment, hate activity, and other violations of this Policy to the appropriate person (typically one’s supervisor or the next level supervisor not involved or implicated) in accordance with PR515 and PR728 and any other procedure made pursuant to this Policy.

(b) Employees should be aware of and sensitive to issues of discrimination and harassment, and should support individuals who are, or have been, targets of discrimination and harassment.

6.6.3. Director

The Director of Education, who holds primary responsibility for implementation of this Policy, will safeguard and promote an equitable, accessible, respectful and inclusive environment free of discrimination and harassment including by:

(a) Regularly assessing the effectiveness of measures designed to protect and advance human rights within the Board, and, when needed, revising such measures, or replacing them with new ones, in consultation with the Human Rights Office.

(b) Taking necessary proactive steps to identify, address, and prevent systemic discrimination, and advance human rights organizational change, including by ensuring effective implementation of related program measures, as identified in section 6.5.

(c) Ensuring the implementation of an appropriate process to identify, handle, investigate, and remedy instances, potential instances, allegations, and complaints of discrimination, harassment, poisoned environment and reprisal in a manner appropriate in the circumstances, through this Policy and the associated procedures.

~~Human Rights~~

~~Adoption Date: May 3, 2000 — Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031 Page Revision Date: May 19, 2004 Page 27 of~~

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

- (d) Holding all TDSB members accountable for complying with this Policy and associated procedures, particularly system leaders who are directing minds of the Board.
- (e) Ensuring that the Human Rights Office is independent and impartial as it carries out its mandate, and taking reasonable measures to ensure it is seen as such by all members of the TDSB community.
- (f) Designating and preserving adequate resources for ensuring the full and proper implementation of this Policy and the associated procedures.

6.6.4. Persons in Positions of Authority

6.6.4.1 Persons in positions of authority are responsible for not only their own conduct, but also for addressing the conduct of those under their supervision. To prevent and address instances, potential instances, allegations, and complaints of discrimination, harassment, poisoned environment, hate activity, and reprisal, persons in positions of authority will:

- (a) Lead by example by not engaging in, tolerating or condoning discrimination or harassment or any other violations of this Policy.
- (b) Make all reasonable efforts to promote an environment that encourages reporting violations of this Policy.
- (c) Make all reasonable efforts to protect those under their supervision from all forms of discrimination and harassment by maintaining equitable, accessible, respectful and inclusive learning and working environments that are free of discrimination, harassment, poisoned environments, and reprisal.
- (d) Where appropriate to their position of authority, educate or provide educational opportunities for TDSB members to ensure they are aware that discrimination and harassment will not be tolerated, that they understand their rights and responsibilities as they relate to this

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ Page ~~Revision Date: May 19, 2004~~ Page 28 of

35

i. ~~Toronto District School Board~~

~~Policy P.031 EMP: Human Rights~~

Policy and the associated procedures, and that they understand how to report violations.

(e) Take all instances, potential instances, and complaints of discrimination and harassment, or any other violations of this Policy, seriously, including by promptly:

(i) intervening when it occurs or is suspected to have occurred; and

(ii) making inquiries or consulting with a direct supervisor, the HRO, or other department of the Board, as appropriate, to assist in effectively managing allegations, instances, potential instances, and complaints.

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy ~~P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~Page ~~Revision Date: May 19, 2004~~Page 29 of

35

~~G02(R:\Secretariat\staff\g02\project\webpol\P031-EMP.doc)sec.1530~~

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

6.6.4.2 Managers

In addition to the above, managers will:

- (a) Be knowledgeable of this Policy and the associated procedures.
- (b) Post this Policy and associated procedures in a conspicuous location in workplaces under their supervision where it would be likely to come to employees' attention, and make the Policy and procedures available (electronically or by hard copy).
- (c) Promptly impartially investigate allegations, instances, potential instances, and complaints of discrimination, harassment, and any other violations of this Policy, in accordance with this Policy, associated procedures, the Code, and where applicable the OHSA;
- (d) Take remedial and/or disciplinary action with any person found to have engaged in conduct in violation of this Policy.

6.6.4.3 Principals

In addition to the above, principals will:

- (a) Review this Policy and the associated procedures with school staff at the start of each school year; and
- (b) Ensure that students are provided information, resources and education specified in 6.5.6.1(e) above.

6.6.5. Human Rights Office

6.6.5.1. As TDSB's centre of human rights expertise, the HRO will:

- (a) Advise members of the TDSB community about their human rights and obligations, including by producing and disseminating user-friendly materials for display in schools, workplaces, and other TDSB environments;

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy P.031 EMP

~~R:\Secretariat\Staff\G02\03\Pol\P031~~ Page ~~Revision Date: May 19, 2004~~ Page 30 of

35

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

(b) Impartially and fairly investigate, resolve, mediate and address human rights complaints and incidents, including in the areas of employment and education; and

(c) Proactively and systemically advance human rights organizational change including through:

- (i) identification of systemic human rights issues;
- (ii) professional development, education, and capacity building;
- (iii) policy and procedure review and development;
- (iv) outreach and engagement with school communities; and
- (v) research, data collection, analysis, reporting and evaluation of TDSB's performance in protecting and advancing human rights.

6.6.5.2. The HRO will function as the facilitative lead for the development, coordination and implementation of the Board-approved Human Rights Organizational Change program, pursuant to section 6.5., in collaboration with other Board Departments (e.g. Equity, Indigenous Education, Employee Services, Research, Special Education and Inclusion, Disability Management Office, Accessibility Office, Employment Equity, etc.).

6.6.5.3. The HRO may self-initiate inquiries, environmental scans or investigations where it reasonably believes that rights under this Policy may have been violated, including in the absence of a complaint.

6.7. The Duty to Accommodate

Members of the TDSB community should refer to the HRO website for guidelines or procedures connected to the duty to accommodate.

6.8. Addressing Policy Violations

Members of the TDSB community should refer to the procedures created pursuant to this Policy for information on addressing instances, potential instances, allegations, and complaints of violations of this Policy.

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031Page~~ **Revision Date: May 19, 2004** ~~Page 31 of~~

35

i. ~~Toronto District School Board~~

~~Policy P.031 EMP: Human Rights~~

7.0 SPECIFIC DIRECTIVES

The Director has authority to issue operational procedures to implement this Policy.

8.0 EVALUATION

The Human Rights Policy will be reviewed as required, and at least annually, in accordance with the *Occupational Health and Safety Act*.

The HRO will implement a mechanism to receive feedback on this Policy, associated procedures, and human rights organizational change initiatives on an ongoing basis.

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy ~~P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~Page ~~Revision Date: May 19, 2004~~Page 32 of

35

~~G02(R:\Secretariat\staff\g02\project\webpol\P031-EMP.doc)sec.1530~~

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

In recognition of Truth and Reconciliation principles, the HRO will specifically invite feedback from: the Urban Indigenous Community Advisory Committee with the guidance of the TDSB Council of Elders; the Urban Indigenous Education Centre; and Indigenous, First Nations, Métis, and Inuit members of the TDSB community.

Appropriate Policy revisions will be considered for implementation during the yearly review process.

9.0 APPENDICES

- Not Applicable

10.0 REFERENCE DOCUMENTS

Ontario Human Rights Commission Policies

For additional information, reviewing policies developed by the Ontario Human Rights Commission is encouraged, including:

- Policy on ableism and discrimination based on disability
- Policy on accessible education for students with disabilities
- Policy guidelines on racism and racial discrimination
- Policy on preventing discrimination based on creed
- Policy on preventing discrimination based on gender identity and gender expression

Policies

- Acceptable Use of Information Technology Resources (P088)
- Accessibility (P069)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Dealing with Abuse and Neglect of Students (P045)
- Equity (P037)
- Gender-Based Violence (P071)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Respectful Learning and Working Environment (P073)

Human Rights

~~Adoption Date: May 3, 2000~~ — ~~Policy P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031 Page~~ **Revision Date: May 19, 2004** ~~Page 33 of~~

35

~~i. Toronto District School Board~~

~~Policy P.031 EMP: Human Rights~~

- ~~• Workplace Harassment Prevention for Non-Human-Rights-Code Harassment (P034)~~
- ~~• Workplace Violence Prevention (P072)~~

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy ~~P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031Page~~ ~~Revision Date: May 19, 2004~~ Page 34 of 35

~~G02(R:\Secretariat\staff\G02\project\webpol\P031-EMP.doc)sec.1530~~

i. ~~Toronto District School Board~~

Policy P.031 EMP: Human Rights

Procedures

- Abuse and Neglect of Students (PR560)
- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Code of On-line Conduct (PR571)
- Complaint Protocol for the Board Member of Conduct (PR708)
- E-mail Usage (PR572)
- Police-School Board Protocol (PR698)
- Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools (PR728)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights Procedure (PR515)
[Note: currently under review]

Legislation

- Canadian Charter of Rights and Freedoms
- Education Act
- Occupational Health and Safety Act
- Ontario Human Rights Code

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy ~~P.031 EMP~~

~~R:\Secretariat\Staff\G02\03\Pol\P031~~Page ~~Revision Date: May 19, 2004~~Page 35 of

35

Appendix C – Human Rights Policy (P031) Summary of Changes

Overview

The Human Rights Policy (the Policy) affirms and supports Toronto District School Board's commitment to defend, uphold and promote human rights in all learning and working environments. It applies to all students, employees, and other members of the TDSB community in TDSB environments.

The Policy prohibits discrimination and harassment on the basis of protected grounds and identifies how the Board will meet its obligations under the Ontario *Human Rights Code* (the Code), as well as under the *Occupational Health and Safety Act* (with respect to workplace harassment based on Code protected grounds).

The amended Human Rights Policy:

1. Emphasizes and actions systemic and proactive dimensions of the Board's human rights commitments;
2. Articulate human rights-related responsibilities of employees, directors, supervisory and management personnel, and the Human Rights Office.

Highlights of Changes

Establish a Human Rights Organizational Change Program

The TDSB is shifting its human rights approach from primarily complaints-driven to a positive obligation model that seeks to proactively identify, address, and prevent human rights violations from occurring in the first place. Elements of the organizational change program will include:

- the development and implementation of a Human Rights Impact Assessment framework
- the development and implementation of a performance management framework
- Data collection, analysis and reporting
- Information, learning and awareness

Human Rights Impact Assessment framework

The Policy commits to the development of a Human Rights Impact Assessment framework to identify, remedy and prevent systemic discrimination including as it manifests in policies, practices, or procedures, or the lack thereof. The HRO may initiate a Human Rights Impact Assessment where it believes there may be a significant discriminatory effect.

Performance Management Framework

The Policy commits to the development of a performance management framework that integrates and embeds accountability for human rights across the organization, including in hiring and promotion decisions. Human rights will be required as a competency in staff performance appraisals, hiring, and promotion decisions. Violations would be tracked and taken into account in promotion decisions.

Data Collection and Reporting

The Policy enhances the Board's commitment to monitor human rights compliance and identify systemic trends through data collection, analysis and reporting. This will enable the Board to develop evidence-based remedial or preventative interventions. The Policy also requires the development of an Annual Human Rights Report for the Board of Trustees, that includes de-identified and disaggregated data findings.

Information, Learning, and Awareness

Building TDSB members' capacity is key to creating a human rights culture. Measures will be developed and implemented to ensure members are aware of their rights and responsibilities under this Policy and have the necessary knowledge, skills and competencies to exercise those rights and to fulfill those responsibilities. The policy requires the designation of an Indigenous Human Rights Advocate(s) to support the human rights of Indigenous, First Nations, Métis and Inuit members of the TDSB community, as well as the designation of Student Human Rights Advocate(s) to advise, support and help students whose human rights may have been violated.

Updated and New Definitions, Roles and Responsibilities

The Policy revises existing definitions (e.g. reprisal, poisoned environment, and systemic discrimination) and adds new definitions (e.g. positive obligations, directing minds, person in a position of authority). In combination with setting out human rights-related responsibilities, the definitions to support accountability and to better protect and advance human rights. the Policy also confirms that the Human Rights Office can initiate inquiries, investigations, and environmental scans in the absence of a complaint from an individual.

Community Input

The HRO will implement a mechanism to receive feedback on this Policy, associated procedures, and human rights organizational change initiatives on an ongoing basis. The HRO will specifically invite feedback from: the Urban Indigenous Community Advisory Committee with the guidance of the TDSB Council of Elders; the Urban Indigenous Education Centre; and Indigenous, First Nations, Métis, and Inuit members of the TDSB community.

POLICY REVIEW WORK PLAN

Date: 30 May 2017

All policies will be reviewed to ensure consistency with the TDSB's *Mission and Value (P002)* policy, including the principles within the TDSB's Integrated Equity Framework that promote equity and inclusion.

POLICY INFORMATION

Policy Title and Policy Number: [Human Rights \(P031\)](#)

Review during fiscal year: [2016/17](#)

Last revised or reviewed: May 19, 2004

Adopted: [May 3, 2000](#)

Executive Council member responsible for this Policy review: [Associate Director, Equity and Achievement, and Manager, Human Rights.](#)

Phase I. PLANNING AND OBTAINING TRUSTEES' DIRECTIONS

This Policy Review Plan has been discussed with the Policy Coordinator:

- Yes
 No

This Policy Review Plan will be discussed at the Governance and Policy Committee meeting held on: [June 7, 2017](#)

Phase II. REVISIONS

Formatting Changes

The Policy will be reformatted to ensure alignment with the current Policy Template (see Operational Procedure PR501, Policy Development and Management):

- Yes
 No

Content Changes

The Policy requires content revisions:

- Yes
 No

The content changes are due to the following reason(s):

- Legislation
 Government directives/policies

Governance and Policy Committee June 7, 2017	Page 81	Board Services Agenda Record GPC:005A Agenda Item 6.5.
---	-------------------	---

- Board decisions
- Operational requirements
- Simplify and/or update using plain language
- Alignment with Integrated Equity Framework
- Other – Recommendations of the Coroner’s jury as related to the Katelynn Sampson Inquest

The proposed changes to the Human Rights Policy (P031) include:

- The addition of two prohibited grounds (gender identity and gender expression) added to the *Ontario Human Rights Code* in 2012;
- Alignment with the recently completed review and revisions to the TDSB’s Workplace Harassment Prevention Policy (P034) and corresponding procedures
- Alignment with newly released policies produced by the Ontario Human Rights Commission (i.e., *Policy on Preventing Discrimination and Harassment based on Creed, Policy on Ableism and Discrimination based on Disability, OHRC policy position on sexualized and gender-specific dress codes etc.*);
- Alignment with the TDSB’s Equity Policy; and
- Greater clarity and simplification of the policy for ease of use and navigation

A review of leading practices for similar policies across other school boards has been completed and is included with this Work Plan.

Phase III. INTERNAL REVIEWS AND SIGN-OFFS

The Policy review will include TDSB divisions affected by the Policy:

- Equity and Achievement
- Facilities, Sustainability and Employee Services
- Finance and Operations

In addition, the following departments will be required to sign-off on the proposed Draft Policy:

- Legal Services
- Governance and Board Services
- Government, Public and Community Relations

A sign-off from the Director of Education will be obtained before proceeding with external consultations and/or Committee/Board approval.

- Director of Education

Governance and Policy Committee June 7, 2017	Page 82	Board Services Agenda Record GPC:005A Agenda Item 6.5.
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Phase IV. EXTERNAL CONSULTATIONS

Are external consultations applicable to this Policy?

Yes

No (*Ministry of Education mandated policy or corporate policy without external stakeholders*)

Mandatory external consultations will include, at a minimum:

1. Posting of the working draft Policy on TDSB website for public feedback (30 days minimum): [September 2017](#)
2. Extending invitations for consultation to all Advisory Committees of the Board and conducting consultations with the Advisory Committees that expressed interest (either individually with each interested committee or collectively with representatives of all interested committees): September 2017
 - Aboriginal Community Advisory Committee
 - Alternative Schools Advisory Committee
 - Black Student Achievement Community Advisory Committee
 - Community Use of Schools Advisory Committee
 - Early Years Advisory Committee
 - Environmental Sustainability Community Advisory Committee
 - Equity Policy Advisory Committee
 - French as a Second Language Advisory Committee
 - Inner City Advisory Committee
 - Parent Involvement Advisory Committee (PIAC)
 - Special Education Advisory Committee (SEAC)
 - Student Nutrition Advisory Committee

In addition to mandatory consultations, other external participants and projected dates of consultation(s) include:

- Student SuperCouncil
- School Councils
- Other: [Union groups consultation](#)

The following methods will be applied in the external consultations:

- Public meeting
- Facilitated focus group
- Call for public delegations
- Expert panel discussion/round table
- Survey
- Posting on the TDSB website

Governance and Policy Committee June 7, 2017	Page 83	Board Services Agenda Record GPC:005A Agenda Item 6.5.
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Other: [Email communication](#)

Phase V. COMMITTEE/BOARD APPROVALS

Following external consultations and revisions, the working draft Policy will be presented to the Governance and Policy Committee on the following date:

To be determined - [November or December 2017, or January 2018](#)

Following recommendation by the Governance and Policy Committee, the revised Policy will be presented to the Board on the following date: [January 2018](#). Once approved, the revised Policy will replace the existing policy on the TDSB website.

Phase VI. IMPLEMENTATION

Following Board approval, the final revised Policy will be communicated through:

- Posting of the revised Policy on the TDSB website through the Policy Coordinator
- Sharing with staff through the System Leaders' Bulletin
- Informing departments at staff meetings and channeling information to the school principals through respective superintendents
- Implementation of a broad communication plan for internal and external audiences

Policy implementation will include:

- Conducting information/training sessions to TDSB staff affected by the Policy

January to February 2018

The projected time period for conducting information/training sessions to staff will be:

- Review of associated procedures or initiate development of new procedures
[Operational procedures are being reviewed concurrently with this Policy under review \(expected operational procedures review completion – June 2017\).](#)

Governance and Policy Committee June 7, 2017	Page 84	Board Services Agenda Record GPC:005A Agenda Item 6.5.
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Appendix C

REVIEW OF OTHER SCHOOL BOARD, JURISDICTION, MUNICIPALITY AND ORGANIZATIONS' POLICIES: HUMAN RIGHTS POLICY (P031)

Summary

The TDSB's current Human Rights Policy (P031) was adopted on May 3, 2000 and was last revised on May 19, 2004. The Ontario *Human Rights Code* holds governing power over Ontario legislation and school board policies and procedures. The Education Act, Ontario Regulations, Ministry of Education Policy/Program Memorandums (PPM) and TDSB policies and procedures are subject to and interpreted through their compliance with the Ontario *Human Rights Code*. The legislative context of this Policy includes:

(i) *Canadian Charter of Rights and Freedoms*

The *Constitution Act [1982]*, which includes the *Canadian Charter of Rights and Freedoms (CCRF)*, is the supreme law of Canada. As such, all other laws and applicable workings of governments, including school boards, must be consistent with its provisions. The charter and Supreme Court of Canada decisions (made under the charter) guarantee everyone equality regardless of race, national or ethnic origin, citizenship, colour, religion, marital status, sex, sexual orientation, age or mental or physical disability.

(ii) *Ontario Human Rights Code*

The provisions of the Ontario *Human Rights Code* (the *Code*) apply to private parties and provincial public institutions. It is public policy in Ontario to recognize the inherent dignity and worth of every person and to provide for equal rights and opportunities without discrimination. The *Code* aims at creating a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and feels able to contribute to the community. Section 1 of the *Code* affirms the right to equal treatment in services without discrimination because of disability. Services include the provision of education. This protection covers publicly funded elementary and secondary schools

Many other TDSB policies are guided by a specific Ministry of Education PPM but in the case of human rights there are a collection of Ministry PPMs that represent human rights issues which direct different TDSB policies. The PPMs that reflect human rights cover topics including equity and inclusive education, school boards code of conduct, school suspension and expulsions or progressive discipline, bullying prevention and intervention, programs for the Deaf, Blind, and Deaf-Blind exceptionalities, learning disabilities, identifying learning needs, health support services, and prevention of different forms of harassment. Although it is not mandatory for school boards to have a human rights policy many boards are required to have policies on the various issues that fall within the grounds of the *Code*.

This scan covers school board policies on the topic of human rights and includes associated policies that represent a school board's commitment to human rights such as, accommodation and/or special

Governance and Policy Committee June 7, 2017	Page 85	Board Services Agenda Record GPC:005A Agenda Item 6.5.
---	-------------------	---

education, harassment, bullying, and equity. Included in the summary are results from twelve (12) Ontario school boards (see list below). All school boards included in this scan had a policy on harassment (e.g., workplace harassment, bullying prevention, or respectful workplace and learning environments). Three (3) of the twelve school boards had a policy specifically named Human Rights (Bluewater DSB, DSB of Niagara, and Peel DSB).

School boards tend to combine their harassment and human rights policies because with the new legislation the Occupational Health & Safety Act now explicitly covers sexual harassment, which is also covered under the *Code*.

In the future, the TDSB's workplace harassment prevention policy may be merged with the revised Human Rights Policy.

Key Differences - Human Rights Policies

The following list includes key differences amongst three (3) school boards' Human Rights Policies.

(i) Responsibility

The responsibility sections or statements were different in the human rights policies compared in this review. Only one school board (Peel DSB) included volunteers, contractors, permit holders, and visitors in the list of those responsible for upholding human rights. One school board (DSB of Niagara) included students, employees, trustees, and parents. One other board (Bluewater DSB) also included community members in their policy's responsibility statements.

Interestingly, the school board (Peel DSB) that included more people and/or groups in their responsibility section was also the only school board that recognized it was the board's responsibility to support and help *any person* who was harassed regardless of who the alleged offender may be. The Peel DSB explained that it was their responsibility to support those harassed even if the offender was someone with only a casual or infrequent connection to their board or someone over whom the board may have no control.

(ii) Actionable language

One school board's policy (Bluewater DSB) reads with a tone of actionable responsibilities. For example, their policy states "the board will seek out and remove systemic and attitudinal barriers and biases..." and uses phrasing such as "ever vigilant" and "proactive practices". In comparison, another school board's policy (DSB Niagara) stated their commitment to meeting obligations under the CCRF and the OHRC but used less proactive language and included phrasing that spoke to awareness and responsiveness.

Governance and Policy Committee June 7, 2017	Page 86	Board Services Agenda Record GPC:005A Agenda Item 6.5.
---	-------------------	---

(iii) Systemic Issues or Barriers

One important difference in the comparison of policies showed that one school board (Bluewater DSB) made three references to systemic human rights issues including: hiring and promotion practices, offering board wide awareness training, and gaps in and/or discriminatory learning opportunities. The policy commitments from this board were to all human rights issues including those that were systemic. In another board's policy (Peel DSB) it clearly explained that systemic discrimination stemmed from various systems and habits in place over time. Therefore, this board's Human Rights Policy stated it would not be appropriate for the board to investigate complaints of systemic discrimination. However, they could be directed to the Human Rights Tribunal of Ontario.

(iv) Different support avenues for human rights complaints

One school board policy (Peel DSB) ensured that the reader was aware that every person has the right to seek assistance from the Human Rights Tribunal of Ontario even when a complaint or issue was being handled under the direction of board policy.

(v) Locations and situations

One school board (Peel DSB) clearly outlined all locations and situations where behaviour would be subject to their Human Rights Policy. For example, Peel DSB included in their locations and situations list the following: work-related situations outside of their board facilities, work-related travel, when using technology resources, and when using electronic communications and/or social media.

Key Differences - Prevention of Harassment Policies

The following list includes key differences amongst six (6) school boards' prevention of harassment policies. It is important to include anti-harassment policies in this review because harassing behaviour is encompassed in the definition of discrimination which is strictly prohibited under the *Code*. Therefore, school boards without a Human Rights Policy, but that did have a prevention of harassment policy have been included in this review because of their harassment policy's direct association to preventing discrimination under the *Code*.

(i) Intended Outcomes

One school board (Hamilton-Wentworth DSB) stated in its harassment prevention policy that 'incident reduction goals' would be established and that specific targets related to these goals would be identified allowing for strategies to be implemented that reduce workplace violence and harassment. Hamilton-Wentworth DSB also states in their policy that claim statistics (e.g., incident, injury, illness reports) are reviewed and compared annually to meet incident reduction goals.

Governance and Policy Committee June 7, 2017	Page 87	Board Services Agenda Record GPC:005A Agenda Item 6.5.
---	-------------------	---

(ii) Working and/or Learning Environments

All school boards have prevention of harassment policies that are written for their employees and govern harassment prevention in the workplace. However, two school boards (Thames Valley DSB and Waterloo Region DSB) include in their policy not only the working environment but also ‘the learning environment’. Thames Valley DSB states ‘every person within the Thames Valley educational community has a right to work and study in a safe, inclusive and accepting environment, free of harassment...’ and specifically include reference to ‘harassment of students’. Although Waterloo DSB also includes ‘the learning environment’ in their policy the directions for the rights of students are stated to be ‘dealt with under other appropriate legislation, regulations, and Board policy’.

School Boards Scanned

The school boards included in this scan are as follows: Bluewater DSB, Dufferin-Peel Catholic DSB, Hamilton-Wentworth DSB, Ottawa-Carleton DSB, Peel DSB, Simcoe County DSB, Thames Valley DSB, Toronto Catholic DSB, Toronto DSB, Waterloo Region DSB, York Catholic DSB, and York Region DSB.

Health Industry

College of Physicians and Surgeons of Ontario

Their Human Rights Policy articulates for physicians their professional and legal obligations to provide health services without discrimination which includes a duty to accommodate those who may face barriers to accessing care. The policy explains the legal obligations under the *Code* for providing services without discrimination. In comparison, the Ontario College of Teachers does not have a specific policy on Human Rights but does follow a document called *Ethical Standards for the Teaching Profession*. However, for the Ontario College of Teachers there is no mention of the *Human Rights Code*.

Post-secondary Institutions and Municipalities

Summary

Post-secondary institutions included in this review tended to have one ‘umbrella’ Human Rights Policy and also separate policies dedicated to specific human rights issues.

York University

York University (YorkU) recently added the terms “Equity” and “Inclusion” to the mandate and name of their former Centre for Human Rights. York U’s Centre for Human Rights, Equity and Inclusion includes, among others, the following specific Human Rights topics as stand-alone policies:

- Academic Accommodation for Students with Disabilities (Policy)
- Gender Free Language (Policy)
- Physical Accessibility of University Facilities (Policy)

Governance and Policy Committee June 7, 2017	Page 88	Board Services Agenda Record GPC:005A Agenda Item 6.5.
---	-------------------	---

- Racism (Policy)

They are committed to further developing their Human Rights Policies with the launching of an Antiracism Committee that will work towards eliminating racial barriers and acknowledging the intersection of race with other identities and protected grounds by the *Code*. Related to their policies and procedures, YorkU also provides Case Resolution Services based on provincial legislation and the University's policies and procedures. They promote informal resolutions, mediation or alternative dispute resolutions, and formal complaint investigations.

YorkU also uses its human rights records for annual reporting and statistical purposes while maintaining anonymity and confidentiality. The results in the report are used to improve policy implementation or to enhance their Procedures document.

University of Guelph

Recognized as a respected leader in inclusion, equity, accessibility and human rights practices the University of Guelph (U of Guelph) established their Office of Diversity and Human Rights in 1996 as one of the first in Ontario. U of Guelph also has a Human Rights Advisory Group that advises on human rights complaints by using the university's Human Rights Policy and Procedure.

City of Toronto

The City of Toronto's Human Rights and Anti-Harassment Policy includes expectations to adhere to their policy from any member of the public, including visitors to their City facilities or individuals conducting business with the City of Toronto. They also state that if harassment occurs, the City will consider barring a harasser from its facilities or discontinuing business with contractors or consultants.

Key phrases in the City of Toronto's Human Rights and Anti-Harassment Policy speak to division heads or managers/supervisors as responsible for taking a 'leadership role', 'providing leadership', 'providing training', 'ensuring accountability', 'educating their employees', and 'preventing re-occurrence of discrimination or harassment'.

Their policy also provides information about the Human Rights Office, whereas other policies only mention the Human Rights Office (or staff) as part of the process for investigating a complaint. The details regarding their Human Rights Office assures the public on the staff's provision of advice or proceeding with an investigation that is independent, unbiased, and confidential.