



P034, Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy Review: Phase 5

To: Governance and Policy Committee

Date: 2 June, 2021

Report No.: 06-21-4106

Strategic Directions

- Create a Culture for Student and Staff Well-Being
- 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 Workplace Harassment Prevention Policy, renamed the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034), as presented in this report, be approved.

Context

The current **Workplace Harassment Prevention Policy (P034) (the “Policy”)** renamed Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (Appendix A, with tracked changes version at Appendix B), is being revised in accordance with the Policy Review Work Plan (Appendix C) approved on April 29, 2020 and the *Occupational Health and Safety Act* which requires school boards to review their policies related to the prevention of workplace harassment and violence annually.

The objective of the revised Policy is to prevent non-Code workplace harassment (i.e. harassment **that is not covered by the Board’s Human Rights Policy or the Ontario Human Rights Code**) from taking place and, where necessary, to investigate and respond to instances, potential instances, and complaints of such behaviour in a fair, timely and effective manner.

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As detailed in the Policy Review Work Plan, the proposed content revisions to the Policy are based on **the Committee's direction and** a review of legislative and operational requirements, including a proposed transferring of responsibility for non-human rights cases away from the Human Rights Office to enable it to better fulfill its mandate across employment and services. Staff also completed a jurisdictional scan of similar policies from other jurisdictions in the Greater Toronto Area (Appendix C).

Revisions to the Policy also considered feedback from various stakeholders received during policy consultations. Policy consultations with the **Board's** Community Advisory Committees, Student Senate, Federations, Unions, Staff Associations and the wider TDSB community were conducted from February 18, 2021 until May 11, 2021.

The revised Policy is designed to promote a healthy, respectful, and supportive work environment. It highlights conduct that may amount to non-Code workplace harassment **and outlines the system's shared responsibility for fostering a harassment-free workplace.**

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

Additional resources have been allocated to enable Employee Services to take on this new mandate of receiving, managing, investigating, and resolving non-Code based workplace harassment complaints under the *Occupational Health and Safety Act*.

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)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Equity (P037)
- Gender-based Violence (P071)
- Human Rights (P031)
- Occupational Health and Safety (P048)
- Respectful Learning and Working Environment (P073)

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- Workplace Violence Prevention (P072)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Promoting a Positive School Climate (PR697)
- 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)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights (PR515)

Appendices

- Appendix A: Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034) – Revised Clean
- Appendix B: Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034) – Revised, Changes Tracked
- Appendix C: Policy Review Work Plan and Scan

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Toronto District School Board

Policy P034

Title:	WORKPLACE HARASSMENT PREVENTION FOR NON-HUMAN-RIGHTS-CODE HARASSMENT
Adopted:	November 7, 2002
Effected:	November 7, 2002
Revised:	February 16, 2004; November 16, 2011; September 2016; April 19, 2017; June 19, 2019; [insert new date]
Reviewed:	June 2013; October 6, 2015; April 19, 2017; June 19, 2019; [insert new date]
Authorization:	Board of Trustees

1.0 RATIONALE

The Toronto District School Board (the “Board”) is committed to providing a safe, nurturing, positive learning and working environment, free of harassment and discrimination, where every individual is treated with dignity and respect.

This Policy is consistent with the *Occupational Health and Safety Act* (“OHS”) and the Board’s obligations under the OHS with regard to workplace harassment that is not covered by the Board’s Human Rights Policy (P031).

2.0 OBJECTIVE

This Policy is designed to promote a healthy, respectful and supportive work environment. It highlights conduct that may amount to non-Code workplace harassment (i.e. **harassment that is not covered by the Board’s Human Rights Policy or the Human Rights Code**) and outlines the **system’s shared** responsibility for fostering a harassment-free workplace. The goal is to prevent non-Code workplace harassment from taking place and, where necessary, to investigate and respond to instances, potential instances, and complaints of such behaviour in a fair, timely and effective manner.

3.0 DEFINITIONS

Abuse of Authority occurs when a person improperly uses the power and authority inherent in their position to engage in non-Code workplace harassment. This harassment may include, but is not limited to, patterns of the following behaviours:

- **undermining the performance of a worker’s job, including unjustifiably withholding information so as to interfere with a worker’s work;**
- unnecessarily reprimanding a worker in front of others;

- improperly interfering with or inappropriately influencing a worker's career, inappropriately endangering a worker's job, or threatening to do so; or
- otherwise taking advantage of one's position to harass a worker.

Abuse of authority does not include the appropriate and reasonable exercise of managerial authority in connection with: coaching or counseling, assignment and monitoring of work, performance evaluation or discipline, or other supervisory or leadership functions.

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". TDSB is an employer, as defined by the *OHSA*.

Bullying means targeted and typically repeated behaviour (physical, social, verbal, electronic, written or other means) intended to cause harm, fear, isolation, or distress to a worker. Harm may include, for example: physical, psychological, or social harm; or harm to reputation, property or career. Bullying can include creating a negative environment for a worker where there is a real or perceived power imbalance between the parties (for example, based on size, age, strength, academic ability, education, employment position, economic or social status, race, immigrant status, language, ethnic origin, sex, sexual orientation, gender identity, or disability).

Note: Where a protected human rights ground is a factor in the power imbalance, the situation should first be assessed to determine whether the Human Rights Policy (P031) applies, and if not, it may be addressed under this Policy.

Code-Based Harassment means harassment on the basis of a protected ground under Ontario's *Human Rights Code* ("Code") or the Board's Human Rights Policy (P031). The protected grounds are:

- Age
- Ancestry
- Citizenship
- Colour
- Creed (religion, includes Indigenous spiritual practices)
- Disability or perceived disability
- Ethnic origin
- Family status
- Gender expression
- Gender identity
- Marital status (includes single, married and common law, separated, divorced, widowed; includes same and opposite-sex relationships)

Place of origin
Race
Sex (includes pregnancy and breastfeeding)
Sexual orientation
Record of offences (provincial offences or pardoned federal offences)
Socio-economic status
Association with a person identified by a ground listed above

Workplace harassment on the basis of the above grounds is prohibited by both the *Code* and the *OHSA*. *Code*-based workplace harassment, including sexual harassment, falls under the Human Rights Policy (P031), and is not covered under this Policy. The Human Rights Policy also addresses non-workplace harassment on the basis of the protected grounds, as well as discrimination.

Instance includes an incident, conduct, ongoing situation, circumstance, environment, practice, or other event 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.

Non-Code Workplace Harassment means a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, and is not based on a protected ground under the Human Rights Policy (P031) or the *Human Rights Code*.

Examples:

Conduct that may constitute non-*Code* workplace harassment or that could create a poisoned work environment includes, but is not limited to, patterns of the following behaviours:

- Insults; embarrassing, demeaning or intimidating remarks, comments, or gestures; name-calling, yelling, ridiculing, mocking, using abusive language and profanity
- Publicly degrading, shaming, or humiliating; threatening to share embarrassing information
- Gossiping; spreading rumours; exclusion; ignoring; ostracizing
- Workplace jokes or pranks that insult, embarrass, demean, ridicule, or intimidate; hazing
- Displaying or circulating vexatious pictures or materials in print or electronic form, including on-line
- Vexatious phone calls, e-mails, or social media posts
- Deliberately withholding resources or information
- Inappropriate **excessive criticism of someone's work**

- Vandalism, graffiti
- Intimidating or aggressive behaviour, for example, slamming doors, throwing or breaking objects, physical posturing such as blocking doors or entrance ways (see note below with respect to workplace violence)
- Bullying (see definition at Appendix (A))
- Cyber-bullying – bullying by electronic means, such as by email, messaging, or social media
- Abuse of authority

The impact of these behaviours on an individual will be taken into consideration.

A finding of non-Code workplace harassment generally requires a course or pattern of inappropriate conduct (ie. conduct that has occurred on multiple occasions, over time). However, in exceptional circumstances, a single incident of very serious conduct may amount to non-Code workplace harassment. For example, serious abusive behaviour (verbal or physical as outlined above), especially when engaged in by someone in a position of authority.

Notes:

- Some bullying or threatening behaviours may be more appropriately addressed under the Workplace Violence Prevention Policy (P072) if there is an exercise of physical force that causes or could cause physical injury to the worker, or an attempt or threat to exercise such physical force.
- If the inappropriate behaviours (for example, threatening/harassing) are committed via TDSB electronic devices or email etc., it can also be a violation of the Acceptable Use of Information Technology Resources Policy (P088), E-mail Usage Procedure (PR572) or Code of On-line Conduct Procedure (PR571).
- Discrimination and harassment on the basis of a protected ground under the *Human Rights Code* are addressed under the Human Rights Policy (P031) (see above under “Code-Based Harassment”).

Reasonable action

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not non-Code workplace harassment. A “reasonable action” does not include any of the examples of the behaviours listed above under non-Code workplace harassment. A “reasonable action” may include, but is not limited to, the following examples:

- A supervisor **exercising the “right to manage”**. For example, a supervisor making unfavourable operational decisions in alignment with operational requirements, Board mandates, or government

ministry directives; providing appropriate direction; or enacting administrative rules. Such action is unlikely to meet the definition of non-Code workplace harassment even if a worker disagrees with the action or the action adversely impacts one or more individuals.

- Performance management activities related to assessing and improving a **worker's** performance, productivity and effectiveness with the goal of facilitating **the worker's** success. For example, providing constructive feedback, recommendations and supports to improve worker performance, even if the worker does not agree.
- Discipline. Generally, a **worker's** concerns regarding discipline are more appropriately addressed through discussion between Employee Services and the **worker's** union/association/network representative, and/or the appropriate grievance/dispute resolution process, if applicable.

Other Conduct

Other conduct that is typically not non-Code workplace harassment may include, but is not limited to:

- General disagreements among workers (including supervisors).
- General acts of rudeness or incivility. For example, occasionally responding in an abrupt manner, not extending general courtesy like saying please or thank you, or not promptly responding to emails or voice mail.

Poisoned Work Environment for the purpose of this Policy means a work environment that is oppressive, negative, hostile, unwelcoming, or non-inclusive as a result of vexatious behavior that is not 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 a particular person or group. A poisoned work environment may result from a series of incidents or a single serious incident; condonation of such behavior; and/or the failure to remedy and restore the workplace following the incident(s).

Examples:

- A supervisor has yelled at several staff, has acted maliciously, and has been inappropriately punitive. Some staff are afraid of going to work, even those who have not yet been targeted by the conduct.
- A coworker has spread embarrassing gossip about a few coworkers. The supervisor is aware but has not taken the matter seriously. Other

workers are worried they may be targeted next.

Note: A work environment that is poisoned on the basis of a protected ground falls under the Human Rights Policy (P031).

Protected Ground means a protected ground under the Ontario *Human Rights Code* or the Board's Human Rights Policy (P031). See the definition of "Code-Based Harassment".

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 procedure or supporting or assisting someone else to do so;
- (b) for participating in a process to address a matter under this this Policy or associated procedure; 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:

- suspending, disciplining or dismissing a worker;
- intimidating or coercing a worker not to report a situation;
- **changing a worker's position, shift, work location, work assignments or the nature of their work;**
- **reducing or changing a worker's hours;**
- denying a promotion; or
- harassing a worker.

Supervisor means a person who has charge of a workplace or authority over workers.

TDSB means Toronto District School Board, which is also referred to as the "Board". TDSB is an employer, as defined by the *OHSA*.

Vexatious conduct means conduct that is inappropriate or unnecessary and that a worker reasonably experiences as offensive, embarrassing, humiliating, distressing or demeaning.

Note: This definition incorporates a subjective component—the worker actually experiences the conduct as offensive, embarrassing, humiliating or distressing; and an objective component that considers how such behaviour would generally be reasonably received **by an individual in the worker's circumstances**.

Vexatious complaint means a complaint that is deliberately false, or that is brought forward without sufficient merit, solely to cause annoyance or distress. It is important to note that there is a difference between a vexatious complaint and

a complaint that is unsubstantiated but that was brought forward based on the **complainant's good faith belief that harassment occurred.**

Worker means any person included in the definition of "worker" under the *OHSA* including, but not limited to: regular, temporary, and probationary employees; co-op students; and contract employees.

Workplace is defined in the *OHSA* as "any land, premises, location or thing at, upon, in or near which a worker works". 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) 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, particularly when addressed to a worker or when the content is related to a worker or the workplace.

Workplace Conflict means disagreement, discord, or unfavourable interactions within the workplace between one or more individuals or groups that may result from differing ideas, beliefs, decisions, goals or values related directly to their job or organization. Workplace conflict can also result from individuals just not "**getting along**". This is sometimes referred to as a "**personality conflict**".

Causes of workplace conflict may include, but are not limited to:

- competing for limited resources;
- conflict between personal and departmental or organizational goals;
- differing expectations of productivity levels or work performance;
- disagreement on how to achieve organizational or team goals;
- lack of role clarity;
- organizational change;
- poor or ineffective communication; or
- individual differences in opinions, thoughts, communication styles, or life/work styles (personality conflict).

Workplace conflict is a natural occurrence and is not always negative. It is not, in and of itself, harassment. Whether and how workplace conflict is managed determines whether it has an adverse or positive effect on individuals, groups or the workplace. Conflict

appropriately managed can signal the need for change leading to process improvements, higher productivity or improved service delivery. Unresolved conflict or conflict not appropriately managed can lead to a decrease in productivity, increased stress, and absenteeism. If left unchecked, it can ultimately lead to harassing behaviours or a poisoned work environment.

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 Associate Director, Leadership, Learning and School Improvement and the Executive Superintendent, Employee Services.

5.0 APPLICATION AND SCOPE

This Policy addresses workplace harassment under the *OHSA* that is not **covered by the Board's Human Rights Policy (P031), that is, workplace** harassment that is not based on a protected ground under the *Human Rights Code* or Human Rights Policy (P031). It applies to all TDSB workers and addresses non-*Code* workplace harassment from all sources, including supervisors, workers, trustees, students, parents, suppliers, and members of the public.

Code-based harassment and discrimination, including sexual harassment, fall under the Human Rights Policy (P031), and are not covered under this Policy. The Board also has policies and procedures in place to deal with other forms of harassment or harmful conduct. See section 10.0 for a list of other relevant policies and procedures.

6.0 POLICY

6.1 The Board is committed to respectful, equitable employment practices through the prevention of all forms of non-*Code* workplace harassment. The Board will not tolerate, condone or ignore non-*Code* workplace harassment in its schools, facilities and other workplaces.

6.2 All workers are responsible for creating, maintaining, and contributing to a climate of understanding and mutual respect for the rights and dignity of each person. All workers are required to do the following:

- (a) Do not engage in non-*Code* workplace harassment, the creation of a poisoned work environment, or reprisal.
- (b) Cooperate fully in appropriate attempts under this Policy or

- associated procedure to address a situation or complaint.
- (c) Cooperate fully in the investigation of a situation or complaint under this Policy and associated procedure.
- (d) Do not make a vexatious complaint.
- (e) Do not purposefully or recklessly provide false or misleading statements or information to an investigator investigating a matter under this Policy.
- (f) Maintain confidentiality in accordance with the procedure made pursuant to this Policy.

6.3 The Board will promote a healthy, respectful and supportive work environment by providing:

- (a) information and instruction on how to prevent and respond to non-Code workplace harassment, a poisoned work environment, and reprisal, including by sharing this Policy and the associated procedure with all workers;
- (b) an environment that encourages reporting all instances of harassment; and
- (c) a process to handle and investigate non-Code workplace harassment, poisoned work environment, and reprisal instances, potential instances, and complaints in a manner appropriate in the circumstances, through this Policy and the associated procedure.

6.4 Supervisors are responsible for not only their own conduct, but also for addressing the conduct of those under their supervision. To prevent non-Code workplace harassment, poisoned work environment, and reprisal and to address instances, potential instances, and complaints, management will do the following:

- (a) Lead by example by not engaging in, tolerating or condoning non-Code workplace harassment, a poisoned work environment, or reprisal.
- (b) Make all reasonable efforts to protect workers from all forms of harassment by maintaining a work environment that is respectful.
- (c) Post this Policy and associated procedure in a conspicuous location in the workplace, where it would **be likely to come to workers' attention**, and make the Policy and procedure available to workers (electronically or by hard copy).
- (d) Be aware and knowledgeable of this Policy and associated procedure.
- (e) Educate or provide educational opportunities for workers to ensure they are aware that harassment will

not be tolerated, and that they understand their rights and responsibilities as they relate to this Policy and associated procedure.

- (f) Take all instances, potential instances, and complaints of non-Code workplace harassment, poisoned environment, and reprisal seriously by promptly:
 - (i) intervening when it occurs or is suspected to have occurred;
 - (ii) investigating allegations, instances, potential instances, and complaints of non-Code workplace harassment, poisoned environment and reprisal in a manner appropriate in the circumstances, in accordance with this Policy, associated procedure and the OHSA;
 - (iii) making inquiries or consulting with other Board departments, as appropriate, to assist in effectively managing allegations, instances, potential instances, and complaints; and
 - (iv) taking remedial and/or disciplinary action, with any person found to have engaged in conduct in violation of this Policy. Remedial action may include, but is not limited to, training and education or other actions as deemed appropriate in the circumstances. Remedial action for workers is taken in consultation with Employee Services. Remedial action for persons who are not workers is taken after consultation with the Legal Services Department and/or Safe Schools Department and/or applicable superintendent, as appropriate, and may entail, but is not limited to, denial of access to Board premises or issuance of trespass notices.

6.5 All workers, including those who witness, are encouraged to report non-Code workplace harassment, a poisoned work environment, or reprisal to the appropriate person (**typically one's supervisor or the next level supervisor not involved or implicated**) in accordance with the procedure made pursuant to this Policy. Reprisal against workers is prohibited (please see above definition of "reprisal").

6.6 Any person who makes a complaint of non-Code workplace harassment, poisoned work environment, or reprisal or who manages or participates in a process to address and/or resolve a matter under this Policy, will adhere to the confidentiality provisions set out in the procedure made pursuant to this Policy.

6.7 Action may be taken with any worker who fails to abide by the requirements set out in this Policy, including but not limited to remedial action or discipline, up to and including termination of employment.

- 6.8** This Policy must be interpreted harmoniously with the spirit and intent of the *Human Rights Code*, and the **Board's Human Rights Policy (P031) and Equity Policy (P037)**, and will not be interpreted or applied in a manner that undermines the values or rights reflected in them.

Example: A person experiencing racism from another worker isolates themselves away from that person, and avoids speaking to them. They also warn another **racialized worker about that person's racism. This reaction to experiencing racism** is not workplace harassment. While the ideal circumstance is for all TDSB supervisors to be approachable and responsive so that workers experiencing racism can address such matters through them, workers should not be penalized when they feel unable to do so or when such efforts fail and other strategies are employed.

- 6.9 ADDRESSING INCIDENTS OF SUSPECTED HARASSMENT**
Workers should refer to the procedure created pursuant to this Policy for information on addressing situations or complaints of suspected non-Code workplace harassment, poisoned work environment, and reprisal.

7.0 EVALUATION

This Policy will be reviewed as required, but at least annually, in accordance with the *OHSA*

8.0 APPENDICES

Not Applicable

9.0 SPECIFIC DIRECTIVES

The Director will issue an operational procedure to implement this Policy, including setting out the process for addressing incidents or complaints of suspected non-Code workplace harassment, poisoned work environment, and reprisal.

10.0 REFERENCE DOCUMENTS

Policies:

- Acceptable Use of Information Technology Resources (P088)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Equity (P037)
- Gender-Based Violence (P071)
- Human Rights (P031)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Respectful Learning and Working Environment (P073)
- Workplace Violence Prevention (P072)

Procedures:

- 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)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights (PR515)

Legislative Acts:

- *Education Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*

Toronto District School Board

Policy P034

Title: WORKPLACE HARASSMENT PREVENTION FOR NON-HUMAN-RIGHTS-CODE HARASSMENT

Title: WORKPLACE HARASSMENT PREVENTION

Adopted: November 7, 2002

Effectuated: November 7, 2002

Revised: February 16, 2004; November 16, 2011; September 2016;

April 19, 2017; June 19, 2019; [insert new date]

Reviewed:- June 2013; October 6, 2015; April 19, 2017; June 19, 2019; [insert new date]

Authorization: Board of Trustees

1.0

RATIONALE

The Toronto District School Board (the "Board") is committed to providing a safe, nurturing, positive learning and working environment, free of harassment and discrimination, where every individual is treated with dignity and respect.

This ~~Policy~~ ~~policy~~ is consistent with the *Occupational Health and Safety Act* ("*OHSA*") and ~~it is intended to comply with the Board's obligations under the OHSA with regard to workplace harassment that is not covered by and to support the Board's Human Rights Policy (P031). Values and Respectful Learning and Working Environment Policy (P073).~~

2.0 OBJECTIVE

This ~~Policy~~ ~~policy~~ is designed to promote a healthy, respectful and supportive ~~work~~ ~~working and learning~~ environment. -It highlights conduct that may ~~amount~~ ~~lead to non-Code~~ workplace harassment (i.e. harassment that is not covered by the Board's Human Rights Policy or the Human Rights Code) ~~and as well as~~ outlines the system's shared responsibility ~~for~~ ~~in~~ fostering a harassment-free workplace. -The goal is to prevent ~~non-Code~~ workplace harassment from taking place and, where necessary, to investigate and respond to ~~instances,~~ potential instances, and incidents/complaints of such ~~behaviour~~ ~~behavior~~ in a fair,

timely and effective manner.

3.0

DEFINITIONS

Abuse of Authority occurs when a person improperly uses the power and authority inherent in their position to engage in non-Code workplace harassment. This harassment may include, but is not limited to, patterns of the following behaviours:

- undermining the performance of a worker's job, including unjustifiably withholding information so as to interfere with a worker's work;
- unnecessarily reprimanding a worker in front of others;
- improperly interfering with or inappropriately influencing a worker's career, inappropriately endangering a worker's job, or threatening to do so; or
- otherwise taking advantage of one's position to harass a worker.

Abuse of authority does not include the appropriate and reasonable exercise of managerial authority in connection with: coaching or counseling, assignment and monitoring of work, performance evaluation or discipline, or other supervisory or leadership functions.

Allegation ~~means~~ is an unproven claim or assertion that someone has violated ~~done something wrong based on one's belief that a violation of this Policy~~ policy ~~has occurred.~~

~~Alternative Dispute Resolution (ADR) is a voluntary, confidential process in which parties of a dispute or disagreement can come to a mutual understanding/agreement to resolve their differences. This can involve a facilitated discussion (mediation) among parties with a neutral third party facilitator.~~

Board ~~means~~ is the Toronto District School Board, which is ~~(also referred to as "TDSB").~~ The TDSB is an employer, as defined by the OHSA.

Bullying ~~means~~ ~~targeted~~ ~~is~~ ~~aggressive~~ and typically repeated behaviour (physical, social, verbal, electronic, written or other means) intended to cause harm, fear, isolation, or distress to a worker. Harm may include, for example: ~~(e.g., physical, psychological, or social harm; or harm to , academic), fear or distress to another individual or to the individual's~~ reputation, or property or career. Bullying can ~~It could also~~ include creating a negative environment for a worker ~~another individual~~ where there is a real or perceived power imbalance between the parties (for example, based on one's size, age, strength, academic ability, education, employment position, ~~intelligence, group affiliation,~~ economic or social status, race, immigrant ~~colour, ancestry, religion, citizenship, marital status,~~

language, ethnic origin, ~~sex~~place of origin, family circumstance, sexual orientation, gender, ~~gender~~ identity, ~~or~~gender expression, disability), ~~or receipt of special education.~~

Note: Where a protected human rights ground ~~Conduct that may constitute bullying includes,~~ **but is a factor in not limited to the power imbalance,** ~~following:~~

- ~~• Physical — tripping, hitting, pushing, slapping~~
- ~~• Verbal — name calling, mocking, insults or racist, homophobic, transphobic comments~~
- ~~• Social — gossiping, spreading rumours, exclusion, public humiliation, ignoring, graffiti~~
- ~~• Cyber bullying (bullying by electronic means) — creating a web page or blog, assuming the situation should first identity of another person; posting messages on the internet pretending to be another person; communicating material electronically to more than one individual or posting offensive material on a website that may be accessed by one or more individuals~~

~~Complainant is anyone who makes a complaint under this Policy.~~

Code-Based Harassment means harassment on the basis of a protected ground under Ontario's Human Rights Code ("Code") or the Board's Human Rights Policy (P031). The protected grounds are:

- Age
- Ancestry
- Citizenship
- Colour
- Creed (religion, includes Indigenous spiritual practices)
- Disability or perceived disability
- Ethnic origin
- Family status
- Gender expression
- Gender identity
- Marital status (includes single, married and common law, separated, divorced, widowed; includes same and opposite-sex relationships)
- Place of origin
- Race
- Sex (includes pregnancy and breastfeeding)
- Sexual orientation
- Record of offences (provincial offences or pardoned federal offences)
- Socio-economic status
- Association with a person identified by a ground listed above

Workplace harassment on the basis of the above grounds is prohibited by both the *Code*

and the OHSA. Code-based policy, alleging that workplace harassment, including sexual harassment, falls under the ~~has occurred.~~

Human Rights Policy (P031), Office (HRO) is an office within the TDSB, that is neutral and is not unbiased and is a resource to all covered under this Policy. The Human Rights Policy also addresses non-workplace harassment policy. The HRO upholds the Board's policies on the basis of the protected grounds, as well as harassment and discrimination, as well as the associated laws (e.g., Occupational Health & Safety Act, Ontario Human Rights Code).

~~*Poisoned Work Environment* is a negative working environment created by a form of harassment. The harassment may include inappropriate comments, behaviour, or display of offensive material which has an adverse impact on an individual or a group. The comment or behaviour is typically repetitive in nature and happens over an extended period of time; however, one incident (if serious enough) can poison a work environment and have lasting effects on an individual/group beyond the original incident(s). The offending behaviour or conduct does not have to be directed towards any person or group in particular.~~

Conduct that may create a poisoned work environment includes, but is not limited to the following:

- ~~Repeated yelling and swearing openly in the working environment (does not have to be directed at anyone in particular)~~
- ~~Display of inappropriate, offensive (including sexist/homophobic) material (pin-ups, posters, graffiti etc.)~~
- ~~Repeated inappropriate comments, open discussions or jokes of a sexual nature~~
- ~~Bullying behaviours (repeated taunting, insults, and other inappropriate behaviour intended to cause distress in another person or publically shame, humiliate or degrade). With bullying, there is usually a difference in power.~~
- ~~Condoning harassing or discriminatory behaviours~~

~~*Reprisal* is any harassment, intimidation, threats, or discipline against a person (e.g., complainant, respondent, witness, investigator) for making a report to the Board regarding an incident/complaint of alleged harassment/discrimination. It can also include retaliation against someone who has participated in or is believed to have participated in a process to address a matter under this policy and associated procedure.~~

- ~~*Respondent* is anyone who has a complaint made against them under this policy.~~

~~*Supervisor* is a person who has charge of a workplace or authority over workers, in accordance with the OHSA.~~

~~TDSB is the Toronto District School Board, which is also referred to as the "Board".~~

~~**Vexatious** is conduct that is inappropriate, unnecessary and that a reasonable person would consider offensive, distressing or demeaning. Vexatious complaints are complaints that are brought forward without sufficient merit, solely to cause annoyance or distress.~~

~~**Worker** (for the purpose of this policy) is any person included in the definition of "worker" under the OHSA including, but not limited to regular, temporary, probationary employees, co-op students and contract employees.~~

~~Workplace under the OHSA is any land, premises, location or thing at, upon, in or near which a worker works. 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/changing areas and vehicles used for work purposes or on work property). Conferences, workshops, training sessions and staff functions (e.g., staff parties, retirement celebrations) also fall within the scope of this policy.~~

~~**Workplace Conflict** is negative or unfavourable interaction within the workplace between one or more individuals or groups that results from differing ideas, beliefs, decisions, goals or values related directly to their job/organization. Workplace conflict can also result from individuals just not "getting along." This is sometimes referred to as "Personality Conflicts."~~

~~**Causes of workplace conflict may include, but are not limited to** the following:~~

- ~~• Competing for limited resources~~
- ~~• Conflict between personal and departmental/organizational goals~~
- ~~• Differing expectations of productivity levels/work performance~~
- ~~• Disagreement on how to achieve organizational or team goals~~
- ~~• Lack of role clarity~~
- ~~• Organizational change~~
- ~~• Peer/ineffective communication~~
- ~~• Individual differences in opinions, thoughts or life/work styles (personality conflict)~~

~~**Workplace conflict is a natural occurrence and is not always negative.** It is not in and of itself, harassment. How workplace conflict is managed (or not), determines whether it has an adverse or positive effect on individuals/groups.~~

~~Positive Effects of workplace conflict~~

Conflict appropriately managed can signal the need for change leading to process improvements, higher productivity or improved service delivery.

Adverse **Instance** includes an incident, conduct, ongoing situation, circumstance, environment, practice, or other event 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.

Non-Code Effects of workplace conflict

Unresolved conflict or conflict not appropriately managed can lead to a decrease in productivity, increased stress and absenteeism.

Matters relating to workplace conflict should be addressed as soon as possible with the support of a supervisor (or next level supervisor if the supervisor is involved in the conflict) and the union/association/network or other representative, if applicable. Consideration should be given to the appropriateness for the conflict to be addressed through mediation/alternative dispute resolution, with the support of a third party mediator. Open communication is very important.

Workplace Harassment means ~~is engaging in~~ a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, and is not based on a protected ground under the Human Rights Policy (P031) or the Human Rights Code. ~~or is workplace sexual harassment.~~

Examples:

Workplace Sexual Harassment is ~~engaging in~~ a course of vexatious comment or conduct against a worker in a workplace 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, ~~or 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 to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.~~

Conduct that may constitute non-Code workplace harassment or that could create a poisoned work environment includes, but is not limited to, patterns of the following behaviours:

- Insults; embarrassing, demeaning or intimidating remarks, comments, or gestures; name-calling; verbally abusive behaviour—ongoing name-calling, yelling, ridiculing, mocking, remarks or insults that demean, using abusive language and profanity

- Publicly degrading, shaming, or humiliating; threatening to share embarrassing information
- Gossiping; spreading rumours; exclusion; ignoring; ostracizing
- ~~Ongoing offensive gestures or comments~~
 - Workplace jokes or pranks that result in insult, embarrass, demean, ridicule, or intimidate; hazing or embarrassment
 - Displaying or circulating vexatious pictures or materials in print or electronic form, including on-line
 - Vexatious phone calls, e-mails, or social media posts
 - Deliberately withholding resources or information
 - Inappropriate excessive criticism of someone's work
 - Vandalism, graffiti, hazing
- ~~Gossiping or spreading malicious rumours that adversely impact individuals/groups~~
- ~~Persistent ostracizing or persistent exclusion of an individual/group~~
- ~~Ongoing public humiliation or shaming~~
- ~~**Intimidating or aggressive behaviour, for example, behaviours:**~~
 - ~~Physical – slamming doors, throwing or breaking objects, physical posturing such as blocking doors or /entrance ways (see note below with respect to workplace violence), mocking~~
 - ~~Verbal – persistent shouting, use of profanities or other verbally abusive behaviour (as outlined above)~~
 - ~~Inappropriate use of electronic devices – threatening messages etc.~~
 - Bullying (see definition at Appendix (A))
 - ~~including Cyber-bullying – bullying by, which occurs through use of electronic means, such as by email, messaging, or communication e.g., e-mail, social media}~~
 - ~~Abuse of Authority (utilizing one's authority over another in a manner outlined as abusive or intimidating, as noted above).~~

The impact of these behaviours on an individual will be taken into consideration.

Note:

A finding of non-Code workplace harassment generally requires a course or pattern of inappropriate conduct (ie. conduct that has occurred on multiple occasions, over time). However, in exceptional circumstances, a single incident of very serious conduct may amount to non-Code workplace harassment. For example, serious abusive behaviour (verbal or physical as outlined above), especially when engaged in by someone in a position of authority.

Notes:

- ~~Some bullying or threatening behaviours may be more appropriately addressed covered under the Workplace Violence Prevention Policy (P072); if there is an exercise of physical force that causes or could cause physical injury to the worker, threats or bullying involves actions that result in physical harm or an attempt or threat to exercise such a physical force.~~
- ~~harm on a worker in the workplace.~~ If the inappropriate behaviours (for example, threatening/harassing) are committed via TDSB electronic devices or email etc., it can also be ~~a~~ violation of the Acceptable Use of Information Technology Resources Policy (P088), E-mail Usage Procedure (PR572) or Code of On-line Conduct Procedure (PR571).

Discrimination and

~~Conduct that may constitute workplace sexual harassment on includes, but is not limited to patterns of the basis of following behaviours:~~

- ~~Sexually suggestive or obscene remarks or gestures~~
- ~~Bragging about sexual prowess or discussing sexual activities~~
- ~~Displaying sexualized pin ups, screensavers, messages etc.~~
- ~~Circulating, telling or participating in sexual jokes, communications etc.~~
- ~~Negative/stereotypical comments/jokes based on gender, sex, sexual orientation, gender identity, gender expression~~
- ~~Gender related comments about an individual's physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms~~
- ~~Leering (inappropriate suggestive staring at a protected ground under person's body)~~
- ~~Sexual advance or "solicitation" for a sexual relationship, especially if in a position of power over the individual (able to confer, grant or deny a benefit to them). This may include a supervisor making advances towards a worker or a worker/supervisor making advances towards a contractor~~

~~A finding of Human Rights Code are addressed under workplace harassment (including workplace sexual harassment), generally requires a course or established pattern of inappropriate conduct; however, in exceptional circumstances a single incident of very serious conduct may amount to workplace harassment.~~

~~Conduct that may be considered "single incident" workplace harassment (including workplace sexual harassment), includes, but is not limited to **the Human Rights Policy (P031)** (see following behaviours:~~

- ~~Inappropriate/unwanted touching of a sexual nature~~
 - ~~Serious abusive behaviour (verbal or physical as outlined above under "Code-Based Harassment").), especially when engaged in by someone in~~

~~a position of authority~~

Reasonable action

~~The OHSA also outlines that workplace harassment is not the following:—~~

~~A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not non-Code workplace harassment. A “reasonable action” does not include any of the examples of the behaviours listed above under non-Code workplace harassment. A “reasonable action” may include, but is not limited to, the following examples:~~

~~A supervisorExamples of “a reasonable action” and other conduct that is typically not workplace harassment may include, but is not limited to:~~

- ~~Supervisor exercising the “right to manage”. For example, (e.g., a supervisor making unfavourable operational decisions in alignment with operational requirements, Board mandates, or government ministry directives; providing appropriate direction; or enacting administrative rules. Such action is unlikely to meet the definition of non-Code workplace harassment even if a worker disagrees with the action or the action adversely impacts one or more individuals.Ministry directives)~~
- ~~Performance management activities related to assessing and improving a worker’s performance, productivity and effectiveness with the goal of facilitating the worker’s success. For example, (e.g., providing constructive feedback, recommendations and supports to improve worker performance, even if the worker doesthey do not agree.)~~
- ~~Discipline. (Generally, a worker’s concerns regarding discipline are more appropriately addressed through discussion between the Employee Services Department and the worker’s union/association/network representative, and/or the appropriate grievance/dispute resolution process, if applicable.)~~

Other Conduct

~~Other conduct that is typically not non-Code workplace harassment may include, but is not limited to:~~

- ~~General disagreement with supervisory direction, feedback, operational changes, administrative rules etc., which adversely impact one or more individuals~~

- General disagreements among workers (including supervisors).)
- General acts of rudeness or incivility. For example, (e.g., occasionally responding in an abrupt manner, not extending general courtesy like saying please or thank you, or not promptly responding to emails or voice mail.)

Poisoned Work Environment for the purpose of this Policy means a work environment that is oppressive, negative, hostile, unwelcoming, or non-inclusive as a result of vexatious behavior that is not 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 a particular person or group. A poisoned work environment may result from a series of incidents or a single serious incident; condonation of such behavior; and/or the failure to remedy and restore the workplace following the incident(s).

Examples:

- A supervisor has yelled at several staff, has acted maliciously, and has been inappropriately punitive. Some staff are afraid of going to work, even those who have not yet been targeted by the conduct.
- A coworker has spread embarrassing gossip about a few coworkers. The supervisor is aware but has not taken the matter seriously. Other workers are worried they may be targeted next.

Note: A work environment that is poisoned on the basis of a protected ground falls under the Human Rights Policy (P031).

Protected Ground means a protected ground under the Ontario Human Rights Code or the Board's Human Rights Policy (P031). See the definition of "Code-Based Harassment".

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

- for, in good faith raising concerns or claiming or enforcing a right under this Policy or associated procedure or supporting or assisting someone else to do so;
- for participating in a process to address a matter under this this Policy or associated procedure; or
- 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:

- suspending, disciplining or dismissing a worker;
- intimidating or coercing a worker not to report a situation;

- changing a worker's position, shift, work location, work assignments or the nature of their work;
- reducing or changing a worker's hours;
- denying a promotion; or
- harassing a worker.

Supervisor means a person who has charge of a workplace or authority over workers.

TDSB means Toronto District School Board, which is also referred to as the "**Board**". TDSB is an employer, as defined by the *OHSA*.

Vexatious conduct means conduct that is inappropriate or unnecessary and that a worker reasonably experiences as offensive, embarrassing, humiliating, distressing or demeaning.

Note: This definition incorporates a subjective component—the worker actually experiences the conduct as offensive, embarrassing, humiliating or distressing; and an objective component that considers how such behaviour would generally be reasonably received **by an individual in the worker's circumstances**.

Vexatious complaint means a complaint that is deliberately false, or that is brought forward without sufficient merit, solely to cause annoyance or distress. It is important to note that there is a difference between a vexatious complaint and a complaint that is unsubstantiated but that was brought forward based on the **complainant's good faith belief that harassment occurred**.

Worker means any person included in the definition of "worker" under the *OHSA* including, but not limited to: regular, temporary, and probationary employees; co-op students; and contract employees.

Workplace is defined in the *OHSA* as "any land, premises, location or thing at, upon, in or near which a worker works". 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) 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, particularly

when addressed to a worker or when the content is related to a worker or the workplace.

Workplace Conflict means disagreement, discord, or unfavourable interactions within the workplace between one or more individuals or groups that may result from differing ideas, beliefs, decisions, goals or values related directly to their job or organization. Workplace conflict can also result from individuals just not “getting along”. This is sometimes referred to as a “personality conflict”.

Causes of workplace conflict may include, but are not limited to:

- competing for limited resources;
- conflict between personal and departmental or organizational goals;
- differing expectations of productivity levels or work performance;
- disagreement on how to achieve organizational or team goals;
- lack of role clarity;
- organizational change;
- poor or ineffective communication; or
- individual differences in opinions, thoughts, communication styles, or life/work styles (personality conflict).

Workplace conflict is a natural occurrence and is not always negative. It is not, in and of itself, harassment. Whether and how workplace conflict is managed determines whether it has an adverse or positive effect on individuals, groups or the workplace. Conflict appropriately managed can signal the need for change leading to process improvements, higher productivity or improved service delivery. Unresolved conflict or conflict not appropriately managed can lead to a decrease in productivity, increased stress, and absenteeism. If left unchecked, it can ultimately lead to harassing behaviours or a poisoned work environment.

4.0 While the conduct may be considered undesirable, it typically does not meet the definition of workplace harassment. A “reasonable action” by a supervisor does not include any of the examples of the behaviours listed under workplace harassment.

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 Associate Director, Leadership, Learning and School Improvement and the Executive Superintendent, Human

~~rights and Indigenous Education.
Employee Services.~~

5.0

APPLICATION AND SCOPE

This ~~Policy~~ policy addresses workplace harassment under the *OHSA* that is not covered by the Board's Human Rights Policy (P031), that is, workplace harassment that is not based on a protected ground under the *Human Rights Code* or Human Rights Policy (P031). ~~It~~ applies to all TDSB workers and within the meaning of the *OHSA*. ~~It~~ addresses non-Code workplace harassment from all sources, including supervisors, workers, trustees, students, parents, suppliers, and members of the public.

Code-based harassment and discrimination, including sexual harassment, fall under the Human Rights Policy (P031), and are not covered under this Policy.

The Board also has policies and /procedures in place to deal with other forms of harassment or harmful ~~offensive~~ conduct, including the Reporting of Suspected Wrongdoing (Whistleblowing) Policy (P066), Human Rights Policy (P031), Board Member Code of Conduct Policy (P075), Gender-Based Violence Policy (P071), Caring and Safe Schools Policy (P051), Dealing with Abuse and Neglect of Students Policy (P045), Workplace Harassment Prevention and Human Rights (PR515), Board Code of Conduct Procedure (PR585) and the Bullying Prevention and Intervention Procedure (PR703). See section 10.0 for a complete list of other relevant policies and procedures ~~procedure~~.

6.0 POLICY

- ~~6.1~~ 6.1 The Board is committed to respectful, equitable ~~service delivery and~~ employment practices through the prevention of all forms of non-Code workplace harassment, (including workplace sexual harassment). The Board will not tolerate, condone or ignore non-Code workplace harassment in its schools, facilities and other workplaces.
- ~~6.2~~ 6.2 All workers are responsible for creating, maintaining, ~~All workers are encouraged to report workplace harassment to the appropriate person in accordance with procedures made pursuant to this policy. Workers will not be penalized for reporting (in good faith) an incident, making a complaint or for participating in an investigation under to this policy. Reprisal is prohibited under this policy and the *OHSA*. See section 6.9 (a) regarding vexatious complaints.~~
- ~~6.3~~ Any person reporting an incident or complaint of workplace harassment or who participates in a process to resolve a matter under this policy (including investigators), will keep that information confidential and not disclose or release to anyone any information about the

~~incident/complaint except to the extent necessary to protect a worker(s), to investigate the complaint/incident, to take corrective action or as otherwise required by law. This extends to details of a complaint (including its existence), meetings about an incident/complaint, identifying information about a person including names of witnesses, contact made with an investigator etc. This is a continuous obligation that extends beyond employment with the TDSB. Seeking advice from a worker's own union/association representatives in addressing workplace harassment is permitted, and may be required by some Collective Agreements.~~

~~6.4 This is a continuous obligation that extends beyond employment with the TDSB. Seeking advice from a worker's own union/association representatives in addressing workplace harassment is permitted, and may be required by some Collective Agreements.~~

~~All persons covered under this policy are responsible for creating, maintaining and contributing to a climate of understanding and mutual respect for the rights and dignity of each person. All workers are required to do-by-doing the following:~~

- ~~(a) Do not engage in non-Code behavior that is or may be perceived as workplace harassment;~~
- ~~(b) If comfortable, advise the creation of a poisoned alleged harasser that the conduct is unwelcome and ask that person to stop;~~
 - ~~(a) If approached as per the above, it is expected that the individual will work environment, or reprisal with the person raising a concern, to resolve the matter;~~
 - ~~(b) Cooperate fully in appropriate attempts under this Policy or associated procedure to address a situation or complaint.~~
- ~~(c) If an individual is not comfortable approaching the alleged harasser or an individual is approached and the behaviour does not stop, report incidents of workplace harassment to a Supervisor or the Human Rights Office (workers can also seek help addressing workplace harassment through their respective union/association, the TDSB Employee and Family Assistance Program, or other resources as outlined in the associated procedures);~~
 - ~~(b)(c) Cooperate fully in any attempts to resolve an incident or complaint and cooperate fully in the investigation of a situation any incident or complaint under this Policy and associated procedure.~~
 - ~~(d) Do not make a vexatious complaint.~~
 - ~~(e)(e) Do not purposefully knowingly or recklessly provide false or misleading statements or information to an investigator investigating a matter under this Policy.~~
 - ~~(d)(f) Maintain confidentiality in accordance with the procedure made pursuant with respect to incidents/complaints of matters relating to this Policy and associated procedures.~~

~~6.5—6.3~~ The Board recognizes that ~~general acts of rudeness/incivility by any worker, or less than optimal management styles are behaviours that are not desirable in the workplace and may adversely impact one or more individuals; however, these behaviours are not typically workplace harassment. They are concerning, however, and should be addressed through a supervisor or if a supervisor is involved in the undesirable behaviour, through the next level supervisor. Workers who are unionized or otherwise represented, should contact their respective union/association or network representative to work together with the supervisor (or next level supervisor as per above), to address the concerns. Consideration should also be given to whether the services of a third party mediator may be appropriate in the circumstances. If these behaviours are left unchecked, they can potentially lead to workplace conflict, harassing behaviours or ultimately, a poisoned work environment.~~

The Board will promote a healthy, respectful and supportive work environment by providing:

- (a) ~~information~~ information and instruction on how to prevent and respond to non-Code ~~the prevention of~~ workplace harassment, a poisoned work environment, and reprisal, including by sharing through this Policy ~~policy and the associated procedure, to be shared~~ with all workers;
- (b) ~~an~~ An environment that encourages reporting all instances ~~incidents~~ of harassment; and
- (c) ~~a~~ a process to handle and investigate non-Code workplace harassment, poisoned work environment, and reprisal instances, potential instances, incidents and complaints in a manner appropriate in ~~given~~ the circumstances, through this Policy ~~policy~~ and the associated procedure ~~procedures~~.

6.4 Supervisors ~~are~~ will be responsible for not only their own conduct, but also for addressing the conduct of those under their supervision. ~~To prevent non-Code workplace harassment, poisoned work environment, and reprisal and to address instances, potential instances, and incidents/complaints, of workplace harassment management will do the following:~~

- (a) Lead by example by not engaging in, tolerating or condoning non-Code workplace harassment, a poisoned work environment, or reprisal;
- (b) Make all reasonable efforts to protect workers from -all forms of harassment by maintaining a work/working/learning environment that is respectful;
- (c) Post this Policy and associated procedure in a conspicuous location in the workplace, where it would

be likely to come to workers' attention, and make the Policy and procedure available to workers (electronically or by hard copy), ~~the Workplace Harassment Prevention Policy and associated procedure in the workplace, visible to employees/students;~~

- (d) Be aware and knowledgeable of this ~~Policy~~ policy and associated procedure.;
- (e) Educate or provide educational opportunities for workers ~~to ensure they are aware that harassment will not be tolerated, and~~ that they understand their rights and responsibilities as ~~they relate~~ relates to this ~~Policy~~ policy and associated procedure.;
- (f) Take all instances, potential instances, incidents and complaints of non-Code workplace harassment, poisoned environment, and reprisal seriously by promptly:

intervening

- (i) Intervening when ~~it~~ workplace harassment occurs or is suspected to have occurred;
- ~~(i) investigating~~ Acting promptly on all allegations, instances, potential instances, incidents/complaints of harassment;
- (ii) ~~Investigating incidents~~ and complaints of non-Code workplace harassment, poisoned environment and reprisal in a manner appropriate ~~in~~ given the circumstances, in accordance with this ~~Policy~~ policy, associated procedure and the OHSA;
- (iii) ~~making~~ Making inquiries or consulting with other Board departments ~~the Human Rights Office~~, as appropriate, to assist in effectively managing allegations, instances, potential instances, and incidents/complaints; and
- ~~(ii) taking~~ Taking remedial and/or disciplinary action, ~~(in consultation with Employee Services),~~ with any person found to have engaged in ~~workplace harassment or~~ conduct in violation of this ~~Policy~~ policy. Remedial action may include, but is not limited to, training and education or other actions as deemed appropriate ~~in~~ given the circumstances. Remedial action for workers is taken in consultation with Employee Services. Remedial action for persons who are not ~~workers~~ employees is taken after consultation with the Legal Services.;
- (iv) Department and/or Safe Schools Department and/or applicable ~~superintendent~~ Superintendent, as appropriate, ~~and. This may entail~~ result in, but is not limited to, denial of access to Board premises or issuance of trespass notices.

6.5 All workers, including those who witness, are encouraged to report non-Code workplace harassment, a poisoned work environment, or reprisal to

the appropriate person (typically one's supervisor or the next level supervisor not involved or implicated) in accordance with the procedure made pursuant to this Policy. Reprisal against workers is prohibited (please see above definition of "reprisal").

6.6 Any person who makes a complaint of non-Code workplace harassment, poisoned work environment, or reprisal or who manages or participates in a process to address and/or resolve a matter under this Policy, will adhere to the confidentiality provisions set out in the procedure made pursuant to this Policy.

~~6.6—6.7 The Human Rights Office (HRO) is neutral and unbiased and is a resource to all covered under this policy. The HRO will work to prevent workplace harassment and respond to inquiries, incidents/complaints of workplace harassment by doing the following:~~

- ~~(a) Assisting with the development of education, information and instruction materials related to the prevention of workplace harassment, and the Board's Workplace Harassment Prevention Policy and associated procedure;~~
- ~~(b) Providing independent, unbiased, confidential advice to all covered under this policy (includes complainants, respondents etc.);~~
- ~~(c) Conducting preliminary assessments of incidents/complaints of workplace harassment (as outlined in the associated procedure), in order to determine if on the face of the complaint the allegation(s) meet the definition of workplace harassment and to determine appropriate next steps to deal with an incident/complaint, in a manner appropriate in the circumstances. This may include re-directing matters to another department of the Board, as deemed appropriate. Actions taken or fact-finding conducted for the purposes of an assessment will be deemed an investigation appropriate in the circumstances for purposes of the OHSA, if the assessment determines no further investigation of the matter is warranted;~~
- ~~(d) Assisting with resolving incidents/complaints formally or informally;~~
- ~~(e) Assisting with the provision of Mediation or Alternative Dispute Resolution (ADR) services, as deemed appropriate or;~~
- ~~(f) Formally investigating matters, as deemed appropriate by the HRO.~~

~~6.7—Action may will be taken with any worker who fails to abide by the requirements set out in this Policy, including but not limited anyone found to have violated this policy, as follows:~~

- ~~Any worker found in violation of this policy may be subject to remedial action or discipline, up to and including termination of employment. (Knowingly or purposefully making false or misleading statements during an investigation, or making a false or vexatious complaint, is considered a violation of this policy).~~
- ~~(a) Supervisory staff who fail to take appropriate action to resolve incidents and complaints (formal or informal), or who fail to act appropriately on findings of~~

~~violations of this policy will be found to have violated this policy and may be subject to remedial action or discipline, up to and including termination of employment.~~

SPECIFIC DIRECTIVES

6.8 This Policy must be interpreted harmoniously with the spirit and intent of the Human Rights Code, and the Board’s Human Rights Policy (P031) and Equity Policy (P037), and will not be interpreted or applied in a manner that undermines the values or rights reflected in them.

Example: A person experiencing racism from another worker isolates themselves away from that person, and avoids speaking to them. They also warn another racialized worker about that person’s racism. This reaction to experiencing racism is not workplace harassment. While the ideal circumstance is for all TDSB supervisors to be approachable and responsive so that workers experiencing racism can address such matters through them, workers should not be penalized when they feel unable to do so or when such efforts fail and other strategies are employed.

6.9 ADDRESSING INCIDENTS OF SUSPECTED HARASSMENT
Workers should refer to the procedure created pursuant to this Policy for information on addressing situations or complaints of suspected non-Code workplace harassment, poisoned work environment, and reprisal.

7.0
The Director is authorized to issue operational procedures to implement this policy.

EVALUATION

~~This The Workplace Harassment Prevention Policy will be reviewed as required, but~~ at least annually, in accordance with the ~~OHSA Occupational Health and Safety Act.~~

8.0

APPENDICES

Not Applicable

9.0

SPECIFIC DIRECTIVES

The Director will issue an operational procedure to implement this Policy, including setting out the process for addressing incidents or complaints of suspected non-Code workplace harassment, poisoned work environment, and reprisal.

10.0 REFERENCE DOCUMENTS

Policies:

- Acceptable Use of Information Technology Resources (P088)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Equity (P037)
- ~~Dealing with Abuse and Neglect of Students (P045)~~
 - Gender-Based Violence (P071)
 - Human Rights (P031)
 - Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
 - Respectful Learning and Working Environment (P073)
 - 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)
 - Sexual Misconduct by Students (PR608)
 - Workplace Harassment Prevention and Human Rights (PR515)

Legislative Acts:

- Education Act
- Human Rights Code
- ~~Occupational Health and Safety Act~~
- ~~Ontario Human Rights Code~~
 - _____

POLICY REVIEW WORK PLAN

Date: [April 29, 2020](#)

All policies will be reviewed to ensure consistency with the TDSB's Mission, Values and Goals Policy (P002), the Equity Policy (P037) and the Board's Multi-Year Strategic Plan.

POLICY INFORMATIONPolicy Title and Policy Number: [Workplace Harassment Prevention \(P034\)](#)Review during fiscal year: [2019-2020](#)Last reviewed: [June 19, 2019](#)

Director's Council member responsible for this Policy review: [Executive Superintendent, Employee Services; and Executive Superintendent, Human Rights and Indigenous Education.](#)

Phase I. PLANNING AND OBTAINING TRUSTEES' DIRECTIONS

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

 Yes No

This Policy Review Work Plan will be discussed at the Governance and Policy Committee meeting held on: [April 29, 2020](#)

Phase II. REVISIONS**Formatting Changes**

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

 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
- Board decisions
- Multi-Year Strategic Plan requirements
- Operational requirements
- Simplify and/or update using plain language
- Alignment with Equity Policy

Detailed information on the proposed content changes, including findings of the policy equity assessment:

- Ensure alignment of the Workplace Harassment Prevention Policy (P034) with the governing legislation and caselaw.
- Ensure provisions of the Workplace Harassment Prevention Policy (P034) adhere to the principles of equity as per the Equity Policy (P037).
- Remove *Human Rights Code*-based harassment that currently falls under the jurisdiction of both the Human Rights Policy (P031) and the Workplace Harassment Prevention Policy (P034) from the ambit of the Workplace Harassment Prevention Policy (P034), and remove references to TDSB's Human Rights Office (HRO) from the Workplace Harassment Prevention Policy (P034). This would permit TDSB to assign responsibility for matters that do not fall under the *Human Rights Code* and Human Rights Policy (P031) to Employee Services, better enabling the TDSB to fulfill its human rights and equity commitments to employees, students, parents and community.
- Update the Responsibility section of the Policy to remove Executive Superintendent, Human Rights and Indigenous Education; and replace with Executive Superintendent, Employee Services (Executive Lead TBC).
- Streamline organizational structure and language usage to make it more accessible and user-friendly.
- Ensure consistency of the Policy with the approved Policy Template.

A review of leading practices for similar policies across jurisdictions 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:

- Business Operations and Service Excellence
- Equity, Well-Being and School Improvement
- Human Rights and Indigenous Education
- Leadership, Learning and School Improvement
- School Operations and Service Excellence

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

- Legal Services
- Policy 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

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: [duration TBD due to COVID 19 concerns](#)
2. Extending invitations for consultation to:

- Student Senate

and

all Community Advisory Committees of the Board and conducting consultations with the Community Advisory Committees that expressed interest (either individually with each interested committee or collectively with representatives of all interested committees): [duration TBD due to COVID 19 concerns](#)

- 1) Alternative Schools Community Advisory Committee
- 2) Black Student Achievement Community Advisory Committee
- 3) Community Use of Schools Community Advisory Committee
- 4) Early Years Community Advisory Committee
- 5) Environmental Sustainability Community Advisory Committee
- 6) Equity Policy Community Advisory Committee
- 7) French-as-a-Second-Language Community Advisory Committee
- 8) Inner City Community Advisory Committee
- 9) LGBTQ2S Community Advisory Committee
- 10) Parent Involvement Advisory Committee (PIAC)
- 11) Special Education Advisory Committee (SEAC)
- 12) Urban Indigenous Community Advisory Committee

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

- School Councils
- Professional Associations and Unions
- Other:

The following methods will be applied in the external consultations: [\[at least two or more methods must be selected\]](#)

- Public meeting
- Facilitated focus group
- Call for public delegations
- Expert panel discussion
- Survey
- Posting on the TDSB website
- Other: [electronic communication](#)

Phase V. COMMITTEE/BOARD APPROVALS

Following external consultations and revisions, the working draft Policy will be presented to the Governance and Policy Committee.

Following recommendation by the Governance and Policy Committee, the revised Policy will be presented to the Board of Trustees.

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, include summary of policy revisions and expected outcomes

Policy implementation will include:

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

The projected time period for conducting information/training sessions to staff will be: [Not applicable](#)

- Review of associated procedures or initiate development of new procedures:

[PR515 - Workplace Harassment Prevention and Human Rights](#)

JURISDICTIONAL SCAN OF INSTITUTIONAL RESPONSIBILITY FOR HUMAN RIGHTS AND WORKPLACE HARASSMENT**Background**

The *Ontario Human Rights Code* (the “*Code*”) prohibits discrimination and harassment in employment and the provision of services on the basis of the prohibited grounds of age, ancestry, colour, race, citizenship, ethnic origin, place of origin, creed, disability, family status, marital status, gender identity, gender expression, record of offences (in employment only), sex, and sexual orientation.

The *Occupational Health and Safety Act* (the “*OHSA*”) prohibits workplace harassment (but not discrimination). Unlike the *Code*, under the *OHSA*, all workplace harassment is prohibited and no specific ground of harassment needs to be identified. However, the *OHSA* provides specific protections in the case of sexual harassment.

There is significant overlap, most obviously in the case of sexual harassment, between harassment protections for workers under the *Code* and the *OHSA*.¹ Personal harassment not related to any prohibited ground receives protection only under the *OHSA*. Discrimination is only covered by the *Code*.

The Toronto District School Board’s (“*TDSB*” or the “*Board*”) obligations under the *Code* are reflected in the *Board*’s Human Rights Policy (P031), whereas *TDSB*’s obligations under the *OHSA* are reflected in the Workplace Harassment Prevention Policy (P034). For *Board* workers, the two policies are operationalized in one procedure: the Workplace Harassment Prevention and Human Rights Procedure (PR515). Currently, pursuant to both policy and procedure, the *Board*’s responsibility for receiving, assessing, investigating, and resolving formal human rights and workplace harassment complaints (human rights based and non-human rights based) rests with the Human Rights Office (“*HRO*”). The *HRO* may maintain jurisdiction over formal complaints submitted to the *HRO* involving human rights and/or non-human rights related allegations of workplace harassment, and directly conducts more complex investigations in these regards. Where no prohibited grounds of discrimination are identified or where the investigation is expected to be straightforward, the *HRO* may refer such complaints to management (often a Principal or Superintendent of Education) to conduct the investigation, with the *HRO* providing case management support and oversight as needed. The *HRO* currently does not directly receive complaints from students and parents, and only admits complaints involving employees, in keeping with the application and scope of the *Board*’s Workplace Harassment Prevention and Human Rights Procedure (PR515), which places carriage of student and parent complaints in the hands of management and the school administration.

The *Board* is reconsidering where to place responsibility for non-*Code*-based harassment incidents and complaints in policy and procedure, as well as student and parent complaints of discrimination. This scan explores whether responsibility for *Code* and non-*Code* workplace complaints in other jurisdictions lies with the same office, and considers which board department or individual has responsibility for the complaints process.

¹ Grounds-based harassment in employment that is prohibited by the *Code* (workplace racial harassment for instance) is also prohibited by the *OHSA* as workplace harassment (but without reference to the ground).

Policies and procedures of the following Ontario boards located in the Greater Toronto Area were considered:

- Toronto Catholic District School Board (“TCDSB”)
- York Region District School Board (“YRDSB”)
- York Catholic District School Board (“YCDSB”)
- Peel District School Board (“PDSB”)
- Dufferin-Peel Catholic District School Board (“DPCDSB”)
- Conseil scolaire Viamonde (“CSV”)
- Conseil scolaire catholique MonAvenir (“CSCM”)
- Halton District School Board (“HDSB”)
- Halton Catholic District School Board (“HCDSB”)
- Durham District School Board (“DDSB”)
- Durham Catholic District School Board (“DCDSB”)

The approaches of City of Toronto and the Ontario Public Service (“OPS”) were also considered.

Summary

All jurisdictions considered have policies that codify protections under both the *Code* and the *OHSA*.

The PDSB, the YRDSB, and the City of Toronto are the only jurisdictions considered that have dedicated human rights offices that actively conduct investigations. In all three, there is a jurisdictional division such that the human rights offices do not typically process complaints that fall outside of the *Code*. All three of these human rights offices handle complaints about human rights matters, and these are not restricted to the area of employment. The PDSB and the YRDSB accept human rights complaints by and on behalf of students, for instance. In these jurisdictions, site supervisors or the human resources departments are responsible for workplace harassment complaints that fall under the *OHSA*.

In the OPS, there is no division of responsibility between the two regimes. However, the office dedicated to human rights and workplace harassment does not conduct investigations. Rather, investigations are conducted by management or external investigators. The Workplace Discrimination and Harassment Prevention Program staff (“Advisors”) have an advisory role and are responsible for storing records following the conclusion of the investigation.

In the remaining jurisdictions without specialised human rights offices, there is no division of responsibility between human rights and workplace harassment, and local supervisors or the human resources departments are responsible for both.

A. Jurisdictions with a Division of Responsibility between Human Rights Violations and Workplace Harassment

York Region District School Board

At the YRDSB, there is now a jurisdictional division between *Human Rights Code* and non-*Human Rights Code* complaints. The division was instituted recently following the creation of the Human Rights **Commissioner's** position.

The Human Rights **Commissioner's** Office ("HRCO") at the YRDSB now deals with formal *Code*-based complaints that relate to a prohibited ground of discrimination. The HRCO conducts threshold assessments of complaints received under the "**Human Rights: Code-Related Harassment and Discrimination Policy and Procedure**" to determine whether complaints fall within its jurisdiction, and is responsible for conducting formal investigations. The formal process administered by the HRCO is available to all members of the YRDSB community, including students and employees, who have already attempted to resolve the matter through the informal site-based process.

In the case of non-*Code* workplace harassment complaints, the superintendent responsible for the area in which the alleged harassment took place is responsible for assigning an investigator. Human Resources Services acts in a consultative role and is responsible for keeping records of the investigation.

Sexual harassment complaints must be pursued under the *Code* process.

Peel District School Board

The PDSB also has a division of responsibility between human rights and *OHS*A complaints, with the Human Rights **Commissioner's** Office ("HRCO") taking full-carriage of all *Code*-based complaints it receives, and the Manager of Labour Relations ("MLR") having responsibility for complaints under the *OHS*A.

Previously, both regimes were managed by Human Resources Support Services. However, following the creation of the Human Rights **Commissioner's** Office ("HRCO") in December 2018, which reports to the Director of Education, the HRCO has jurisdiction over all formal human rights complaints from members of the PDSB community including students. The HRCO conducts threshold assessments to determine whether complaints fall within its jurisdiction, and is responsible for conducting formal human rights investigations. In speaking with the Commissioner, she explained that, at this time, these investigations are conducted directly by the HRCO. She also indicated that, because their office is at arms-length from the board, their investigations could not be referred to a Superintendent of Education ("SOE") to conduct the investigation on their behalf.

The MLR is responsible for workplace harassment complaints that allege breaches of the *OHS*A, including alleged *OHS*A breaches that would also breach the *Code*. Intake and threshold

assessments are conducted by the MLR or designee. An investigator, who may be supervisory staff, is assigned to conduct an investigation if warranted, and the investigation report is remitted to the MLR to take appropriate action.

Complainants whose matter falls under both jurisdictions can choose to go to either the MLR or the HRCO, or they might proceed through the MLR first, and could later complain to the HRCO.

The Commissioner indicated that SOEs are responsible for conducting human rights investigations if the matter is brought to them by the complainant; in this case, the HRCO's existence does not supplant the managerial duty to investigate.

City of Toronto

Although the City of Toronto has a single policy and an associated procedure for responding to both human rights and workplace harassment (covering both *Code* and *OHS*A violations), the procedure specifies that division management is responsible for intervening and addressing complaints that do not engage the prohibited grounds under the *Code*, and that managers should contact Employee and Labour Relations and the Human Rights Office ("HRO") for assistance. The HRO provides consultations to individuals and management to provide information and advice regarding both the *Code* and the *OHS*A.

The HRO will only accept complaints from employees of non-*Code* workplace harassment where there is evidence that division management has failed to meet policy obligations.

All formal complaints that engage a prohibited ground are referred to the HRO for mediation and/or investigation. The HRO accepts complaints regarding all areas covered by the *Code* (i.e. employment, services, contracts, and housing accommodations).

Management conducts the threshold assessment and determines whether an investigation is required before referring a complaint to the HRO.

B. Jurisdictions with a Single Process for Workplace *Human Rights Code* and *OHS*A Violations

The remaining jurisdictions have a single process for responding to employee allegations of violations of the *Code* and the *OHS*A.

Although not repeated below, it is noted that most of these jurisdictions have an initial informal process where the complainant seeks the assistance of their supervisor to resolve the matter by seeking to facilitate an agreement between the parties.²

² Some jurisdictions specify that this process may be unavailable in the case of sexual harassment because of the *OHS*A-imposed obligation to conduct an investigation.

Other than the OPS, none of these jurisdictions have dedicated human rights offices, although a few of the boards now have a Human Rights and Equity Advisor (“HREA”) whose role is not yet reflected in the written policy and procedure.³

Toronto Catholic District School Board

At the TCDSB, the Superintendent of Human Resources (or designate) is responsible for investigating workplace harassment and *Code*-based workplace complaints. However, all managers and also the Conflict Resolution Department have responsibility for key aspects of the process.

York Catholic District School Board

The YCDSB procedure indicates that workplace harassment and discrimination complaints are submitted to the **complainant’s** superordinate before being investigated. Investigations are facilitated by the Superintendent of Human Resources and the investigation report is provided to the school superintendent or Superintendent of Human Resources to make findings of fact and to decide the outcome.

At the YCDSB, all managers are required to receive training on how to conduct an investigation into a complaint of “**workplace harassment, including sexual harassment**”.

Dufferin-Peel Catholic District School Board

The DPCDSB has an initial informal process for workplace discrimination and harassment which includes initial fact finding by the supervisor, manager, or principal, including conducting witness interviews.

For formal complaints, the Supervisor of Employee Relations receives the written complaint and is responsible for appointing an investigator or mediator.

Conseil scolaire Viamonde (French public school board)

The CSV has a single policy and related procedure for workplace harassment and harassment and discrimination contrary to the *Code*. Notably, this regime can be invoked by workers and by students.

For formal complaints by students, school administration informs the respondent, provides a summary of the allegations, initiates the investigation process, receives the investigation results, and determines and imposes appropriate measures in response.

³ DDSB, DPCDSB, and TCDSB.

For formal complaints by employees, whether *Code*-related or not, the complaint is submitted to the supervisor who notifies the respondent and provides the respondent with a summary of the allegations, and then the human resources department has carriage of the complaint.

In the case of both students and employees, the investigation is conducted by a person named by the Director of Education or their delegate.

Conseil scolaire catholique MonAvenir (French Catholic school board)

The CSCM has a single policy for workers which references the *OHSA*, but not the *Code*. However it does have two separate procedures: one for *Code*-based harassment and discrimination for employees, and another for workplace harassment. Although the two procedures mirror one another in content, they specify that where a prohibited ground is identified (ie. sexual harassment), it is the *Code* procedure that applies.

Under both procedures, the Attendance Management Advisor and Health and Safety Advisor are responsible for providing information and advice to prospective complainants, and assisting them to write up the complaint.

Formal complaints are submitted to the human resources department, and the board is responsible for investigation and mediation. However it is not identified which office or individual carries out this duty.

Halton District School Board

At the HDSB, formal complaints are submitted to the Executive Officer of Human Resources (or a designate), who is responsible for investigation or information resolution.⁴

Although students can make a complaint under this workplace harassment policy, student complaints about student behaviour are addressed under a separate process.

Halton Catholic District School Board

At the HCDSB, workplace discrimination and harassment formal complaints are submitted to the Executive Officer, Human Resources Services, who is responsible for conducting investigations.

Durham District School Board

⁴ Although both the *OHSA* and the *Code* are referenced in the HDSB procedure, the procedure states that the complaint will be referred to the formal process if it raises a breach of the *Code*. However, it is unclear whether or not *OHSA* complaints that do not indicate grounds of discrimination proceed through the formal process. There is no indication of how *OHSA* complaints that do not raise a *Code* violation should be disposed of if they are not resolved at the informal stage. This may be a drafting oversight.

At the DDSB, formal workplace harassment and discrimination complaint investigations are conducted by the Superintendent of Education/Employee Relations.

Durham Catholic District School Board

The DCDSB's informal workplace harassment and discrimination process includes initial fact finding by the supervisor, including interviewing witnesses, following which there can be a signed agreement, discipline imposed if appropriate, or a referral to the Superintendent of Human Resources and Administrative Services (or designate) who is responsible for conducting the formal complaint process.

Ontario Public Service

At the OPS, the Workplace Discrimination and Harassment Prevention ("WDHP") office is responsible for coordinating all complaints that fall within the scope of the *Code* or the *OHS*A. The WDHP office conducts the threshold assessment, and if the complaint is within scope, the WDHP office recommends to the responsible manager a resolution mechanism or appropriate action based on the nature of the allegations. Upon receiving the recommendation, the manager determines what approach to take. Informal and formal investigations are conducted by management or external investigators. The WDHP office does not conduct investigations. Rather, it has an advisory role and is responsible for storing records following the conclusion of the investigation.

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