



## **Prevention of Sexual Harassment and Misconduct Policy Development – Phase 1**

**To:** Governance and Policy Committee

**Date:** 24 April, 2019

**Report No.:** 04-19-3636

### **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
- Provide Equity of Access to Learning Opportunities for All Students

### **Recommendation**

It is recommended that the work plan for development of the Allegations of Sexual Harassment and Misconduct Policy, as presented in this report, be approved.

### **Context**

The proposed Prevention of Sexual Harassment and Misconduct Policy (the “Policy”) is being developed in response to a Board decision on June 20, 2018, which directed staff to ensure that the investigation process, response, and action around sexual harassment and misconduct are addressed more effectively, transparently, in a timely manner and with greater accountability.

As part of the development process, staff reviewed and analyzed a list of policies and procedures related to allegations of sexual harassment and misconduct at the Toronto District School Board (TDSB) to determine their degree of relevance with regards to the reporting and investigation of sexual harassment and misconduct allegations (see Appendix B). Staff also conducted a scan of selected Ontario school boards’ and their related sexual harassment and sexual misconduct policies and procedures (see Appendix C) and reviewed related best practices of US colleges and universities

As a result of this analysis and scan, staff is recommending to develop an overarching policy to address sexual harassment and misconduct allegations through introducing new provisions (as indicated below) and linking and aligning existing TDSB policies that contain further specifics related to the type of incident that needs to be addressed. The overarching policy would strengthen certain areas (as indicated below) while linking to particular TDSB policies (already in place) that contain specific provisions related to the type of incident that needs to be addressed. It has been determined that the following areas regarding the reporting of sexual harassment and misconduct by Board employees need to be further addressed in the new policy.

- Sexual Harassment/Sexual Misconduct involving Staff and Students
- Information Sharing/Privacy and Confidentiality
- Investigative Procedures
- Training and Education
- Support for those Bringing Forward a Complaint
- Ensure that sexual harassment and misconduct protocols adhere to the principles of equity as stated in the Equity Policy (P037) and the Integrated Equity Framework.

The provisions to be included in this Policy are based on legislative requirements, review of existing policies and procedures, operational requirements, and other school boards' best practices.

### **Action Plan and Associated Timeline**

Subject to the Governance and Policy Committee's directions, the proposed Allegations of Sexual Harassment and Misconduct Policy will be reviewed in accordance with the Policy Development Work Plan (see Appendix A) and subsequently presented in the form of a draft policy to the Governance and Policy Committee for consideration and recommendation. The document will then be presented to the Board of Trustees for final approval.

### **Resource Implications**

At this time, no additional resources will be required for the development of this Policy.

### **Communications Considerations**

The Policy will be communicated in accordance with the Policy Development Work Plan.

## **Board Policy and Procedure Reference(s)**

Please see Appendix B for a list of associated policies and procedures.

### **Appendices**

- Appendix A: Policy Development Work Plan
- Appendix B: List of Policies and Procedures Reviewed for Analysis
- Appendix C: Scan of School Boards - Sexual Harassment and Misconduct

### **From**

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**POLICY DEVELOPMENT WORK PLAN**

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Date: [April 24, 2019](#)

All policies will be developed 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 INFORMATION**

Proposed Policy Title: [Prevention of Sexual Harassment and Misconduct Policy](#)

Director's Council member responsible for development of the new Policy: [Executive Superintendent, Human Rights and Indigenous Education and Executive Superintendent, Employee Services](#)

**Phase I. APPROVAL OF POLICY RATIONALE**

The rationale for the new Policy: [This Policy is being proposed in response to decision of the Board from the June 20, 2018 meeting which directed staff to ensure that the investigation process, response, and action around sexual harassment and misconduct are addressed more effectively, transparently, in a timely manner and with greater accountability.](#)

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

- Yes  
 No

**Phase II. OBTAINING TRUSTEES' DIRECTIONS AND DRAFTING POLICY**

This Policy Development Work Plan will be discussed at the Governance and Policy Committee meeting held on: [April 24, 2019](#)

**Creating the Draft Policy**

The draft Policy will be created and aligned with the current Policy Template (see Operational Procedure PR501, Policy Development and Management, Appendix A):

- Yes  
 No

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

- Consider developing an overarching policy to address harassment and misconduct allegations through introducing new provisions (as indicated below) and linking and aligning existing TDSB policies that contain further specifics related to the type of incident that needs to be addressed (i.e., Dealing with Abuse and Neglect of Students (P045); Human Rights (P031); Workplace Harassment Prevention (P034); Equity Policy (P037); Caring and Safe Schools (P051); Reporting of Suspected Wrongdoing (Whistleblowing) (P066); Gender-based Violence (P071); Workplace Violence Prevention (P072); Respectful Learning and Working Environment (P073); and Board Member Code of Conduct (P075).

As part of the Policy development process the following provisions are proposed for consideration:

- Application and Scope: The Policy is proposed to apply to all employees, Trustees, and students of the Board. In addition, the Policy will cover parents/guardians, occasional staff, volunteers, visitors, and Board employed or affiliated registered medical/health professionals. The Policy is proposed to apply to various possible instances of sexual harassment and misconduct allegations, including adult to adult; adult to student; student to student; and student to adult.
- Definitions: Consider defining and differentiating between the notions of “sexual misconduct” and “sexual harassment”.
  - As defined in the *Protecting Students Act*, “sexual misconduct” refers to the inappropriate behaviour or remarks of a sexual nature by the member that is not sexual abuse of a student where, one or more students are exposed to the behaviour or remarks, or the member knows or ought to know that one or more students are likely to be exposed to the behaviour or remarks, and a reasonable person would expect the behaviour or remarks to have the effect of:
    - causing distress to a student exposed to the behaviour or remarks,
    - being detrimental to the physical or mental well-being of a student,
    - creating a negative environment at a school for a student exposed to the behaviour or remarks,
    - remarks and conduct include acts or remarks that are done or made by electronic means as well.
- Outlining the expectations for communication with parents, students, and stakeholder groups related to sexual harassment or misconduct incidents in the school community in accordance with appropriate legislation.
- Developing process that provides for periodic reporting on sexual harassment and misconduct to the Director of Education and the Board of Trustees.
- Mechanisms to ensure consistency in the investigative processes related to

sexual harassment and misconduct incidents throughout the system.

- Provisions for providing appropriate training on how to conduct an investigation related to sexual harassment or misconduct allegations.
- Provisions where all parties involved in investigation are offered ongoing assistance or accommodations within the TDSB school system to address their individual needs (e.g., additional safety measures, counselling, advocacy, support, academic accommodations/interim measures, and home instruction).
- Provisions on increasing awareness and education related to recognizing and reporting sexual harassment and misconduct incidents.
- Outlining harassment and misconduct investigation protocols that adhere to the principles of equity as stated in the Equity Policy (P037).
- Provisions addressing frivolous complaints, including protocols on detecting frivolous complaints and increasing awareness of the damage caused by frivolous complaints and the possible repercussions.

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 draft Policy will include input from TDSB departments 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
- Governance and Board Services
- Government, Public and Community Relations

Following internal reviews and TDSB departments' sign-offs, the draft Policy will be submitted to Director's Council on: [September 2019](#)

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 minimum:

1. Posting of the working draft Policy on the TDSB website for public feedback (45 days minimum): [90 Days](#)

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): [Fall 2019](#)

Aboriginal Community Advisory Committee

Alternative Schools Community Advisory Committee

Black Student Achievement Community Advisory Committee

Community Use of Schools Community Advisory Committee

Early Years Community Advisory Committee

Environmental Sustainability Community Advisory Committee

Equity Policy Community Advisory Committee

French-as-a-Second-Language Community Advisory Committee

Inner City Community Advisory Committee

Parent Involvement Advisory Committee (PIAC)

Special Education Advisory Committee (SEAC)

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:

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

#### **Phase V. COMMITTEE/BOARD APPROVALS**

Following external consultations and revisions, the working draft Policy will be presented to the Governance and Policy Committee on the following date: [Winter 2020](#)

Following recommendation by the Governance and Policy Committee, the new Policy will be presented to the Board on the following date: [Winter 2020](#)

Once approved, the new Policy will be added to the TDSB website.

#### **Phase VI. IMPLEMENTATION**

Following Board approval, the new Policy will be communicated through:

- Posting of the new 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 provisions 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: [Winter/Spring 2020](#)

- Initiate review of associated policies to ensure alignment with the Policy:
- Board Member Code of Conduct (P075)
  - Caring and Safe Schools (P051)
  - Dealing with Abuse and Neglect of Students (P045)
  - Equity Policy (P037)
  - Gender-based Violence (P071)
  - Human Rights (P031)
  - Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
  - Respectful Learning and Working Environment (P073)
  - Workplace Harassment Prevention (P034)
  - Workplace Violence Prevention (P072)

## Policies and Procedures Reviewed

<b>Policies</b>	
1	P045, Dealing with Abuse and Neglect of Students
2	P031, Human Rights
3	P034, Workplace Harassment Prevention
4	P037, Equity Policy
5	P051, Caring and Safe Schools
6	P066, Reporting of Suspected Wrongdoing (Whistleblowing)
7	P071, Gender-based Violence
8	P072, Workplace Violence Prevention
9	P073, Respectful Learning and Working Environment
10	P075, Board Member Code of Conduct
<b>Procedures</b>	
11	PR560, Abuse and Neglect of Students
12	PR515, Workplace Harassment Prevention and Human Rights
13	PR569, Crisis and Incident Reporting
14	PR585, Board Code of Conduct
15	PR571, Code of On-Line Conduct
16	PR608, Sexual Misconduct by Students
17	PR695, Threats to School Safety
18	PR697, Promoting a Positive School Climate
19	PR703, Bullying Prevention and Intervention
20	PR708, Complaint Protocol for the Board Member Code of Conduct
21	PR710, Reporting of Suspected Wrongdoing (Whistleblowing)

#	Policies	Aligned to Direction	Executive Lead	Last Updated	Rationale for Alignment
1	P045, Dealing with Abuse and Neglect of Students	Directly Aligned	Chris Usih	May 14, 2014	<p>Includes provisions to deal with sexual harassment/misconduct between staff/students. Provisions include the legal duty for staff to report any suspicious of neglect and abuse under the Child and Family Services Act. The Policy also states that any sexual relationship on the part of an employee or volunteer with students under the age of 18 is a serious breach of all Board Policy and a criminal offence of sexual exploitation or assault. The Policy also has provisions that outline disciplinary actions related to abuse and harassment of students involving employees.</p> <p>Defines Sexually Intrusive Behaviour as acts of a sexual nature that may put a child or children at risk of physical or emotional harm but is committed by a student under the age of 12. These include any behaviours for which a person might be charged under the Criminal Code if they were 12 years of age or older. Other sexually problematic behaviours include persistent sexually explicit talk or enactments, sex play between children of different ages or developmental levels, and the inability of a child to stop engaging in sexual behaviour.</p> <p>Defines Abuse and/or neglect as any form of maltreatment contemplated in the Child and Family Services Act, and includes but is not limited to physical abuse, sexual abuse, emotional abuse, exposure to family violence, or neglect.</p>
2	P031, Human Rights	Moderately Aligned	Jim Spyropoulos	May 19, 2004	<p>Ensures Policy applies to all TDSB students, employees, trustees and other users such as members of consultative committees, clients of the Board, parents, volunteers, permit holders, contractors, and employees of organizations not related to the Board but who nevertheless work on or are invited onto Board premises. Also covers discrimination and harassment by such persons which occur outside the study/work place, and which are proven to have repercussions that adversely affect the Board's learning/working environment.</p> <p>Defines Harassment and Sexual Harassment as a form of discrimination defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Sexual harassment is a particular form of harassment. It can take the form of a sexual advance, request for sexual favours or sexual flirtation or banter made by any person, including a person in a position to grant, confer or deny a benefit, privilege, or advancement, where the person engaging in</p>

					such conduct knows, or ought reasonably to know, that it is unwelcome. Sexual attention by an employee toward a student is unacceptable under any circumstances and shall constitute a violation of this policy.
3	P034, Workplace Harassment Prevention	Moderately Aligned	Jim Spyropoulos	April 19, 2017	<p>Defines Workplace Sexual Harassment as 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, <b>or</b> 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.</p> <p>Does not specify sexual harassment provisions related to students.</p>
4	P037, Equity Policy	Not Directly Aligned	Jim Spyropoulos	April 18, 2018	<p>The Policy has no direct provisions related to harassment or sexual misconduct.</p> <p>Addresses sexism and defines it as prejudice, stereotyping, and discrimination directed against people on the basis of their gender Identity/ expression. Sexism may be evident in organizational and institutional structures, policies, procedures, and programs, as well as in the attitudes and behaviours of individuals.</p>
5	P051, Caring and Safe Schools	Moderately Aligned	Jim Spyropoulos	April 17, 2013	<p>Outlines provisions related to the prevention and intervention strategies to address bullying, cyber-bullying, discrimination, harassment, gender-based violence and violence in any form;</p> <p>No specific provisions related to sexual harassment/misconduct.</p>
6	P066, Reporting of Suspected Wrongdoing (Whistleblowing)	Moderately Aligned	Andrew Gold	June 17, 2016	<p>Currently does not contain specific provisions related to harassment, sexual harassment/misconduct.</p> <p>Within this Policy, wrongdoing is defined as a contravention of a federal or provincial act or regulation by a trustee or employee (e.g. Criminal Code of Canada, Education Act and applicable regulations, etc.); an act or omission that creates danger to life, physical and mental health, safety of persons, or to the environment. Under the Criminal Code of Canada, both sexual harassment and assault fall under its privy, However, it is important to note, the Procedure does not explicitly mention harassment, sexual harassment, or sexual misconduct as a form of wrongdoing.</p>

7	P071, Gender-based Violence	Moderately Aligned	Jim Spyropoulos	April 14, 2010	Defines gender-based violence; outlines notification and investigative provisions related to gender-based violence.
8	P072, Workplace Violence Prevention	Not Directly Aligned	Steve Shaw	April 18, 2018	Provisions related to Occupational Health and Safety Act and promoting violence-free workplace.  Does not contain specific provisions related to sexual harassment or misconduct.
9	P073, Respectful Learning & Working Environment	Not Directly Aligned	Jim Spyropoulos	June 23, 2010	No direct provisions related to harassment or sexual misconduct.  Defines working environment is any place where employees, students and other users perform work or work-related duties or functions. Schools and school-related activities, such as extracurricular activities and excursions, comprise the workplace, as do Board offices and facilities.  Outlines provisions to achieve “positive school environment”.
10	P075, Board Member Code of Conduct	Not Directly Aligned	Lori Barnes	November 22, 2017	Does not contain specific provisions for dealing with harassment and sexual harassment/misconduct involving Board Members; Outlines confidentiality protocols related to investigations involving the Board and its members
11	PR560, Abuse and Neglect of Students	Directly Aligned	Chris Usih	March 13, 2018	Direct provisions to deal with sexual harassment between Staff/Students – See Section C1-C7: Maltreatment of or Sexual Misconduct to Students by a Board Employee or Volunteer on the Procedure for details.
12	PR515, Workplace Harassment Prevention and Human Rights	Directly Aligned	Jim Spyropoulos	October 24, 2017	Outlines general Provisions for Filing Harassment Complaints; Dual Processes; Support Person for Complainants, Respondents and Witnesses; Complaint Procedures; Managerial Response to an Incident / Complaint of harassment / discrimination; Human Rights Office Response to an Incident/Complaint of Harassment/Discrimination; Investigation Process (Responsibility, Confidentiality, Written Notification of Complaint, Safety and Separation of Parties; Timelines; Investigation/Fact Finding Process; Medical/Other Leaves; Informal Resolutions.  Addresses student complaint procedures through appropriate Board school policy or procedure (e.g., Caring and Safe Schools Policy, Bullying Prevention and Intervention Procedure, Sexual Misconduct by Students Procedure, Parent Concern Protocol). Outlines student complaints against the administration should be forwarded to the Board’s Human

					Rights Office. The complaint is addressed through the appropriate school policy or procedure (e.g., Caring and Safe Schools, Parent Concern Protocol) in cases of systemic concerns, the matter is referred to an external investigator.
13	PR569, Crisis and Incident Reporting	Not Directly Aligned		November 4, 2008	<p>Defines crisis as any violent incident, serious accident/injury, or incident including significant damage to property at schools or other Board facilities; and an incident that has the potential to impact, or is impacting, the health and welfare of students, staff and/or community.</p> <p>Contains no specific provisions related to harassment or sexual harassment/misconduct.</p>
14	PR585, Board Code of Conduct	Moderately Aligned		February 20, 2013	<p>Outlines provisions in establishing a code of conduct for all members of the TDSB community in accordance with the Education Act and the Provincial Code of Conduct.</p> <p>Outlines specific provisions related to student expulsions and sexual harassment/misconduct.</p>
15	PR571, Code of On-line Conduct	Moderately Aligned	Peter Singh	October 2012	Consists of protocols outlining users of the TDSB Online systems to not knowingly access, upload, download, store, display, distribute or publish any information that constitutes messages of sexual harassment or which contains inappropriate romantic overtones.
16	PR608, Sexual Misconduct by Students	Moderately Aligned	Chris Usih	May 25, 2010	Outlines specific provisions and investigative procedures related to when students are suspected of sexual harassment or misconduct towards other students and/or staff.
17	PR695, Threats to School Safety	Not Aligned	Jim Spyropoulos	August 19, 2009	This Policy does not contain provisions pertaining to harassment or sexual misconduct.
18	PR697, Promoting a Positive School Climate	Moderately Aligned	Jim Spyropoulos	February 20, 2013	<p>The Procedure lists specific protocols dealing with harassment, sexual assault and misconduct. However, these protocols apply to students only (i.e. suspensions and expulsions related to harassment allegations); and do not stipulate protocols on how to deal with issues surrounding staff and sexual harassment allegations with students.</p> <p>The Procedure defines sexual assault as any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim. The term refers to a range of behaviours that involve the use of force or control over the victim. In some cases, no overt physical force is Used; instead, the victim may be threatened with words or pressured into doing something he or she does not want to do.</p>

					Sexual harassment is defined as when a person receives unwelcome sexual attention from another person, whose comments or conduct is known or should reasonably be known to be offensive, inappropriate, intimidating, hostile and unwelcome. It also includes an environment in which sexist or homophobic jokes and materials are allowed.
19	PR703, Bullying Prevention and Intervention	Moderately Aligned	Jim Spyropoulos	May 7, 2013	<p>Within the Procedure, the definition of bullying does not explicitly relate to sexual harassment or misconduct. Instead, the definition of bullying is broad and defined as causing harm, fear or distress to another individual, including physical, psycho-logical, social or academic harm, harm to the individual's reputation or harm to the individual's property; bullying occurs in a context where there is a real or perceived power imbalance between the pupil and the individual based on factors such as size, strength, age, intelligence, peer group power, economic status, social status, religion, ethnic origin, sexual orientation, family circumstances, gender, gender identity, gender expression, race, disability or the receipt of special education.</p> <p>The Procedure does not contain specific protocols dealing with sexual harassment or misconduct. The Procedure has protocols related to bullying amongst students of the Board but does not have provisions related to bullying by teachers or staff towards students.</p>
20	PR708, Complaint Protocol	Moderately Aligned	Lori Barnes	November 22, 2017	The Procedure does not contain specific investigative protocols to deal with harassment, sexual harassment, or sexual misconduct. However, the Procedure does outline the informal complaint process; formal complaint process; reporting to the Integrity Commissioner; and classification of complaints (i.e. MFIPPA, Criminal Code of Canada) for any investigations involving the Board and its members.
21	PR710, Reporting of Suspected Wrongdoing (Whistleblowing)	Moderately Aligned	Andrew Gold	July 2016	The Procedure establishes the process for reporting of suspected wrongdoing with regard to employees of the Board. Individuals are able to confidentially report a suspected wrongdoing to an external third party using one of the following methods: telephone whistleblowing hotline, email, or direct email. It is important to note that the reporting of suspected wrongdoing is carried out by an external third party, whereas, the investigation is either handled internally or externally depending on the situation and TDSB employee.

## **Scan of Selected Ontario School Boards: Sexual Harassment and Misconduct Scan**

The Toronto District School Board's (TDSB) has several policies that refer to and contain provisions regarding sexual harassment. These include, but are not limited to: the Workplace Harassment Prevention Policy (P034); Equity Policy (P037); Dealing with Abuse and Neglect of Students (P045); Reporting of Suspected Wrongdoing (P066); and the Workplace Violence Prevention Policy (P072). Collectively, these policies establish guidelines for the prevention, reporting, and handling of cases of sexual harassment in the TDSB's working and learning community.

The *Occupational Health and Safety Act*, section 32.0.1 (1) (b) mandates the creation of a workplace harassment policy by employers. Every board in this scan references the *Ontario Human Rights Code* in its harassment policies, as it provides a legislative context as well as legal definitions of what actions constitute harassment. Most boards in this scan used the definition of harassment from the *Ontario Human Rights Code* as its own definition. The TDSB maintains this standard and also references both the *Ontario Human Rights Code* and the *Occupational Health and Safety Act* in its definitions of harassment. However, it is important to note that no school board in this scan references the Protecting Students Act, which legislate stricter consequences for school staff who engage in sexually abusive behaviour.

This scan covers thirteen (13) school boards (see list below) that have policies and/or procedures on harassment and sexual harassment.

### **Key Differences**

The policies reviewed are generally consistent in regards to definitions of harassment, adherence to legislative requirements (i.e., *Occupational Health and Safety Act* and the *Ontario Human Rights Code*), and levels of training and resources provided to staff. However, several differences exist in policies and procedures. School boards vary greatly in how their policies are organized and the investigative procedures they mandate.

### **Policy Organization**

Most boards included sexual harassment as part of the definition of harassment, and then used a general harassment policy and procedure to deal with all cases. One board (i.e., Niagara Catholic DSB) has a separate sexual misconduct policy, while another (i.e., Waterloo Regional DSB) uses a general harassment policy and a separate sexual harassment procedure. Several school boards disperse sexual harassment and misconduct provisions across multiple policies and procedures

including their human rights policy, workplace violence policy, and general harassment procedures.

The TDSB's policies on sexual harassment prevention and investigation were similarly spread out between multiple documents. The TDSB includes sexual harassment as part of its definition of harassment and provides a general investigative procedure as well as preventative measures that apply to all cases. In addition, the TDSB has a separate Gender-Based Violence (P072) Policy, but it does not include a separate investigative procedure. The TDSB also has a separate procedure related to Sexual Misconduct by Students (PR608).

### **Sexual Harassment Involving Student(s) and Teacher(s)**

The boards in this scan were unanimous in their inclusion of power dynamics in their definition of harassment. More specifically, most boards included language from the *Ontario Human Rights Code* defining sexual harassment as situations in which a “sexual solicitation or advance is made by a person in a position to confer, grant or deny a benefit or advancement”. Some boards (i.e., Upper Grand DSB) used this legislative context to outline specific provisions regarding student-teacher sexual harassment as a subsection of their harassment policy. Other boards (i.e., DSBN, Niagara Catholic DSB, Ottawa-Carleton DSB) provide separate policy documents with specific procedure for dealing with alleged student-teacher sexual harassment.

The TDSB also includes the *Ontario Human Rights Code* language concerning power dynamics in its definition of sexual harassment. Moreover, the TDSB makes clear in its Human Rights Policy (P031) that any sexual misconduct of any kind between staff and student violates Board policy. Further, in the Neglect and Abuse of Students Policy (P045) and the corresponding procedure (PR560), separate and specific provisions lay out the process for dealing with allegations of TDSB staff harassment of students or relationships between staff and students as well as the extent of disciplinary actions that may be taken in response to such actions.

### **Privacy and Confidentiality**

Several boards (i.e., Niagara Catholic DSB, Peel DSB, Thames Valley DSB, Waterloo DSB) explicitly outline protocols for confidentiality surrounding harassment investigation and allegations. Other boards (i.e., DSBN, Ottawa-Carleton DSB, Upper Grand DSB) state that all information should be kept as confidential as a general rule of practice. Only one board (Ottawa-Carleton DSB) mandated any level of public transparency in regards to allegations of harassment through mention of all cases and investigations having to comply with the *Municipal Freedom and Information Privacy Act*. It is important to note that no boards in this scan had any provisions regarding mandated communication with the school community and greater public related to harassment investigations or charges.

The TDSB maintains confidentiality and privacy regarding allegations in accordance with applicable laws, police investigations and advisement by union associations. Therefore, due to privacy concerns, the immediate release of information is not always possible.

### **Investigative Procedures**

Three (3) boards (i.e., Halton DSB, Ottawa-Carleton DSB, Thames Valley DSB) provided clear outlines of investigative procedure in procedural documents, while three (3) others (i.e., Niagara Catholic DSB, Upper Grand DSB, Waterloo DSB) outlined general investigative steps in policy documents.

One board (Thames Valley DSB) mentions a statute of limitations of six (6) months within which allegations of sexual harassment must be brought forth, though exceptions can be made based on evidence. Three (3) boards (i.e., Niagara Catholic DSB, Ottawa-Carleton DSB, Peel DSB) outlined appeal processes for sexual harassment cases. Six (6) boards (Hamilton-Wentworth DSB, Kawartha Pine Ridge DSB, Niagara Catholic DSB, Ottawa-Carleton DSB, Upper Grand DSB, Waterloo DSB) clearly state that reprisal against complainants is prohibited. Further, two (2) boards (i.e., Ottawa-Carleton DSB, Peel DSB) allow for external mediators to be appointed by the Director of Education and the executive of human resources, respectively.

The TDSB's Workplace Harassment Prevention Policy (P034) states that the Board will provide an investigative procedure, and it does so in publicly accessible procedural documents. Some types of cases are handled through separate investigative procedures, as mentioned above in regards to the harassment of a student by a TDSB staff. Currently, there is no central TDSB investigative procedure to follow; investigative protocols exist across various policies and procedures.

Within this scan, none of the Board's investigative protocols outline any statute of limitations period(s) or appeals processes. They do, however, clearly prohibit any penalization of individuals who report on harassment. The TDSB's Reporting of Suspected Wrongdoing (Whistleblowing) Policy (P066) states that complainants are entitled to be informed of how a matter they report on is handled, and specifically defines any form of reprisal against the reporting of harassment as harassment itself. The TDSB's Workplace Harassment Prevention and Human Rights Procedure (PR515) outline the use of mediators in a general harassment investigation. Though a selection process is not specifically outlined, the mediator must be agreed to by all parties involved, and must be a third-party individual who is not associated with the same working or learning environment of any of the parties.

## **Training**

While no boards in this scan mandated staff training on investigative procedure, training on harassment prevention was more widespread. Most boards made mention of workplace training on harassment prevention and awareness being a responsibility of the board, and two (2) boards (i.e., DSBN, Kawartha Pine Ridge DSB) specifically outline human rights, awareness, and prevention materials that must be part of the training. Only one board (Upper Grand DSB) made reference to any supports that should be given to victims of harassment through their Employee Assistance Program.

The TDSB's Gender-based Violence Policy (P071) includes in its prevention strategy the availability for gender-based violence policy and procedure training for all staff, as well as investigative-specific training for administrators. Other policy documents, such as the Workplace Harassment Prevention Policy (P034), the Equity Policy (P037), and the Workplace Violence Prevention Policy (P072), all state that the Board will make awareness and prevention training available for those respective topics.

The only mention of victim supports in regards to sexual harassment within TDSB policy and procedure relates to the right of complainants to have a support person with them during an investigation. This support person could include, but is not limited to: a family member or friend, legal assistant or a union representative. Currently, supports available to victims of alleged sexual harassment are not identified in TDSB policies or procedures.

## **School Boards Scanned**

The following school boards were included in this scan: Bluewater DSB, District School Board of Niagara, Halton DSB, Hamilton-Wentworth DSB, Kawartha Pine Ridge DSB, Lambton Kent DSB, Niagara Catholic DSB, Ottawa-Carleton DSB, Peel Region DSB, TDSB, Thames Valley DSB, Upper Grand DSB, and Waterloo Region DSB.

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