



Regina Roman Catholic Separate School Division # 81

Personnel and Employee Relations 7110 Sexual Harassment Prevention	Administrative Application	
	Effective:	January 27, 2015
	References:	Saskatchewan Employment Act 2014 Saskatchewan Human Rights Code Local Authorities Freedom of Information and Privacy Protection Act ER-2 Treatment of Staff and Volunteers
	Status:	Operational

Preamble

Compliance with the provisions of this administrative application is a condition of employment.

This administrative application and related Administrative Application 7110 – Sexual Harassment Prevention applies to all employees of the school division. It also applies to all individuals on school property and/or individuals involved in sanctioned school events or activities. Contractors who come on to the property of the school division are expected to respect this administrative application. Persons who initiate the hiring of a contractor for the performance of services to the Board shall ensure that all contracts include language requiring the contractor to comply with the provisions of this administrative application. The person initiating and/or supervising the contract shall monitor compliance with the application and shall immediately report any breaches to the Director. Administrative Application 7110 – Sexual Harassment Prevention complies with all requirements that, at the time of its writing, are specified in, and mandated by, *The Saskatchewan Employment Act 2014* and the Regulations related thereto.

Nothing in the Administrative Application 7110 - Sexual Harassment Prevention shall discourage or prevent an employee, at any point, from referring a sexual harassment complaint to the Occupational Health and Safety Division established pursuant to *The Saskatchewan Employment Act 2014*. Further, nothing in this application shall discourage or prevent the initiation of a complaint pursuant to *The Saskatchewan Human Rights Code*, nor shall this application discourage or prevent the exercise of any other rights or proceedings available under any other law.

In the event of a conflict between any provisions of this administrative application and applicable law, the applicable law shall apply.

Application

1. Definitions

- a. Sexual Harassment
Sexual harassment is defined so as to include the provisions of *The Saskatchewan Human Rights Code*, which prohibit discrimination based on sex in employment.
- b. Sexual Harassment is any objectionable conduct, comment or display by a person that:
 - i. Endangers an individual's continued employment.
 - ii. Negatively affects an individual's work performance.



- iii. Creates an employment consequence that undermines the harassed person's job security, job status, or potential for promotion.
 - iv. Creates an offensive working environment or interferes with job performance, or
 - v. Undermines the individual's sense of personal dignity.
- c. Sexual harassment may include, but is not limited to:
- i. A demand for sexual favours from an employee, by a person in a position of authority.
 - ii. Indication by a person in a position of authority that sexual favours are a condition of employment or advancement in employment.
 - iii. Physical assault such as deliberate touching, grabbing, pushing or unsolicited physical contact including leaning over, pinching or patting.
 - iv. Repeated and unwanted sexual comments, suggestions that are found objectionable or offensive and cause discomfort on the job.
 - v. Persistent propositions, invitations, or uninvited pressure for dates.
 - vi. Gender based insults and taunting.
 - vii. Display of suggestive pictures or other material.
 - viii. Uninvited letters, telephone calls, or other communications.
 - ix. Leering or whistling.
 - x. Unwelcome inquiries and/or comments about a person's sex life or sexual orientation.

2. Exclusions

Religious Discrimination

The Board reserves all constitutional rights and obligations it has in addition to those accorded by *The Human Rights Code*.

The Board reserves the right to discriminate based on religion. *The Human Rights Code, Sec., 15(5)* reads:

*"Nothing in this section deprives a ... school board of the right to employ persons of a particular religion or religious creed where religious instruction forms or may form the whole part of the instruction or training provided by the Board pursuant to **The Education Act**."*



3. **Social Discourse**

Sexual harassment is not mutually acceptable social discourse or banter that may occur in the work environment. However, where another employee is present, and that employee is not of the same view, and that employee makes it known that he or she finds the social discourse and/ or banter offensive, the other employees must refrain from that kind of language or behaviour in the presence of an employee who finds it, within reason, offensive.

4. **Responsibilities**

a. Employer

The Board as the employer will not condone sexual harassment in the workplace. The Board will actively work towards creating and maintaining a work environment free from sexual harassment.

In keeping with its commitment to facilitate a Catholic climate conducive to both learning and working, and when, following the investigative process, it is determined that sexual harassment has occurred, the Board will discipline the employee, student, parent, or other member of the public who has engaged in sexual harassment towards an employee.

The Board will make every effort, consistent with the procedures outlined in this policy, to resolve incidents of sexual harassment and provide support and assistance to persons subjected to sexual harassment.

b. Supervisory Staff

All Board appointed staff are obligated to act quickly upon information concerning incidents of sexual harassment. They are to be sensitive to issues relating to sexual harassment and the effects that such behaviour has on employees and the work environment.

Supervisory staff are directed to take appropriate action as further defined in these Regulations when allegations of sexual harassment are made known in the manner herein defined.

c. Employee

Each employee has an individual responsibility to support a workplace free from sexual harassment. Employees have a responsibility to refrain from engaging in sexual harassment at the workplace. They have an obligation to change behaviour if they know, suspect, or are informed that another might consider their actions sexual harassment.

As a first step, an employee who believes that he or she has been subjected to sexual harassment should tell the offender OR an appropriate person in authority that he /she objects to this type of behaviour.

d. Other

Students, parents/guardians or other members of the public have a responsibility to refrain from engaging in sexual harassment at the school. They have an obligation to change behaviour if they know, suspect or are informed that another might consider their actions sexual harassment.



5. Prevention

a. General Prevention

Sexual harassment varies in kind, degree and in perception of injury. It is recognized, therefore, that no single structure or process can resolve all of the issues involved.

The Board recognizes the importance of sexual harassment and is committed to:

- i. Clarify its objectives with respect to sexual harassment and through communication and consistent application of policy.
- ii. Support specific programs of education and awareness on sexual harassment.

b. Occupational Health and Safety Committee

Each work site Occupational Health and Safety Committee is expected to become informed concerning issues of sexual harassment and, where it is known, to provide support and information to persons at the work site who may be the subject of sexual harassment.

6. Complaint Resolution Procedures

a. Reporting

- i. Any employee who feels that he/she has been the subject of sexual harassment is advised to immediately tell the offender to stop.
- ii. If an employee knows or suspects sexual harassment is happening to a co-worker, the employee is encouraged to:
 - (1) Support the co-worker, and
 - (2) Encourage the co-worker to report the incident of sexual harassment as soon as possible to the appropriate authority.
- iii. If an employee cannot confront the offender, or where the victim has told the perpetrator to stop, and the sexual harassment continues, the employee is advised to promptly report the conduct:
 - (1) By making an informal complaint to the employee's immediate supervisor.
 - (2) By making a formal complaint, in writing, to any one of the following persons:
 - (a) The employee's immediate supervisor.
 - (b) The principal of the school.
 - (c) The designated senior administrator
 - (d) The Director.

b. Informal Complaint Resolution Procedures

- i. Informal resolution is not a required step in the resolution process.



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- ii. Where an employee makes an informal complaint, the supervisor to whom the informal complaint was made, and with the consent of the complainant, has the following courses of action available:
 - (1) Speak directly with the alleged offender and attempt to resolve the situation in an informal manner.
 - (2) Advise the complainant to contact the alleged offender by letter in order to discourage the alleged offender from further sexual harassment, or,
 - (3) Arrange for mediation of the complaint if either party requests mediation and if both parties are willing to participate in the mediation process.
 - iii. The supervisor or persons to whom the alleged sexual harassment complaint is made shall make a written record summarising the complaint and its resolution. Such record shall be forwarded to the Superintendent of Human Resource Services and shall be kept in strict confidence unless required for formal complaint resolution procedures. No written copy of this record will remain in the school files. Where a complaint has been substantiated, a copy of the written record shall be placed, in a sealed envelope, in the personnel file of the complainant and the employee who was the subject of the complaint.
 - iv. If no other alternative method of dealing with the complaint appears to be reasonable or acceptable, the supervisor shall advise the employee to make a formal written complaint.
- c. Formal Complaint/Investigation
- i. Any employee who feels that he/she has been subjected to sexual harassment is advised to immediately tell the offender to stop.
 - ii. Where an employee chooses to make a formal complaint, the complaint should be filed as soon as possible after the incident has occurred. Formal complaints must be filed within three (3) months of the alleged incident of sexual harassment.
 - iii. Formal complaints must be written and signed by the complainants, and must be remitted in the following format:
 - (1) Name of Complainant
 - (2) Home Phone Number of Complainant
 - (3) Work Phone Number of Complainant
 - (4) Work Place of Complainant
 - (5) Nature of Complaint
 - (6) Respondent (Alleged offender's name)
 - (7) Details of the Complaint—Describe incident(s) detailing behaviour, what was said or done, date and location, circumstances surrounding the incident, the names of any witnesses
 - (8) Objections made known—Have you previously told the respondent that you object to his/her behaviour and/or told an appropriate person in authority or union official of your concerns? If so please detail.
 - (9) Consent—Authorize the release of information about the complaint to the respondent.



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- iv. The person receiving the formal complaint, if other than the Director, shall immediately report the complaint to the Director.
- v. The Director immediately upon receipt of the complaint shall facilitate investigation of the complaint. Such facilitation may include:
 - (1) Contracting out the investigation.
 - (2) Appointment of a division Out-of-Scope staff member to conduct the investigation.
 - (3) Investigation by the Director.

IT IS EXPECTED THAT ALL INVESTIGATIONS WILL BE CONDUCTED FAIRLY.

In the event the Director is the subject of the complaint or is the complainant, the person receiving the complaint shall report it directly to the Board Chair who shall immediately bring it to the attention of the Board. The Board shall appoint an appropriate person to be in charge of the investigation.

7. Access to Other Proceedings

Nothing in this policy shall be construed as preventing an employee from dealing with an incident of sexual harassment by:

- a. Filing a complaint under *The Saskatchewan Human Rights Code*, which provides in Section 9 and Section 16 that persons shall not be discriminated against in business or employment
- b. Filing a complaint with an Occupational Health Officer pursuant to *The Saskatchewan Employment Act 2014* which provides, in Sec. 3, that the employers shall ensure so far as it is reasonably practicable the employees are not exposed to harassment
- c. Reporting the incident to the police or other authorities if the circumstances so warrant.
- d. Taking any other steps available under any other statute or law.

Where an employee has accessed other proceedings, any investigation being conducted by the school division shall immediately be suspended until all other proceedings have come to completion.

8. Corrective Action

Where sexual harassment has been substantiated, the Board shall take appropriate corrective action.

9. Disciplinary Action

Where sexual harassment has been substantiated:

- a. The employee will be subject to discipline encompassing a range from verbal reprimand up to and including termination of employment.
- b. Students will be subject to discipline as outlined in the guidelines for Violence Prevention: Student Harassment and/or Violence Prevention: Weapons. (See "Related" above)



- c. Parents or other members of the public will be subject to discipline encompassing a range from verbal reprimand up to and including banishment from school and school property.
- d. Factors to be considered in determining the severity of the disciplinary action may include, but need not necessarily be limited to:
 - i. The severity of the sexual harassment.
 - ii. The persistence of the sexual harassment incidents.
 - iii. Whether or not the offender, by demonstrable action, displays co-operation and willingness to change.
- e. Under normal circumstances, if a work transfer is an outcome of the case, the offender will be transferred, not the complainant.
- f. Where sexual harassment has been substantiated and the offender is an employee, it will be documented and placed in a sealed envelope in the personnel file of the offender. With the documentation shall be included a record of the disciplinary measures taken.
- g. Where sexual harassment has been substantiated and a student has offended against an employee, the student will be disciplined according to the Violence Prevention: Student Harassment and/or Violence Prevention: Weapons. (see "Related: above")
- h. Where sexual harassment has been substantiated and the offender is a parent or other member of the public, it will be documented and placed in a sealed envelope. With the documentation shall be included a record of the disciplinary measures taken. A copy of the documentation and corrective measures taken will be provided to the parent /guardian or other member of the public.

10. **Retaliation**

If retaliation is proven to have occurred, further disciplinary action shall take place.

11. **Complaints Made in Good Faith**

Discipline will not be taken against an employee whose complaint of sexual harassment has not been substantiated and where such complaint was made in good faith. The Superintendent of Human Resource Services will destroy all written records and documentation, in such cases.

12. **Malicious and/or Frivolous Complaints**

Malicious and/or frivolous complaints of sexual harassment will be viewed as serious offences by the Board and will result in disciplinary action against the complainant and a record of the discipline will be documented in the personnel file of the complainant.



13. Confidentiality

Receipt of a complaint will be held in strict confidence. The Board will not disclose the name of a complainant or an alleged offender or the circumstances related to the complaint of any person except where disclosure is:

- a. Necessary for investigating the complaint or taking corrective or disciplinary action with respect to the complaint.
- b. Required by law.
- c. Permitted by the Local Authorities Freedom of Information and Protection of Privacy Act.

14. Implementation

As soon as is practicable following implementation of the Policy 7110 – Sexual Harassment Prevention, the Board shall provide, for members of Occupational Health and Safety, a sexual harassment awareness In-service. All who serve on Occupational Health Committees must, as soon as is reasonably possible, participate in such in-service. Ongoing in-service for committee members shall be conducted as need requires.

The Board shall provide training for school division personnel conducting investigations. In-service for investigations shall continue as need requires.



ADDENDUM 1—MEDIATION

Mediation

The purpose of mediation is to find remedies to difficulties that exist between the complainant and respondent. Mediation would be undertaken to allow the parties to share an understanding of and participate in the development of a resolution of their difficulties.

For mediation to proceed, both parties (complainant and respondent) must agree that mediation is [an appropriate alternative].

If mediation is unsuccessful, an investigation of the complaint will be undertaken.

If the investigation process was chosen in the first instance, and the investigation has commenced, the parties may choose to stay the investigation and undertake mediation in lieu. While mediation may be requested at any point during the investigation process, if the mediation does not result in resolution, the investigation will resume and will not be interrupted by further requests for mediation.

The complainant and respondent are required to agree that all communication and documentation used in mediation be treated as confidential and will not be admissible in any other proceedings. Furthermore, the complainant and respondent shall agree to not call the mediator to testify or provide any materials from the mediation in any other proceedings.

The mediator shall retain all information provided by both parties during mediation until the conclusion of the mediation process. Information provided during the mediation process will not be disclosed to subsequent investigators.

Both parties are responsible for reaching terms of resolution that are satisfactory to them. The mediator shall remain impartial and not advocate for either party, nor will the mediator advise either party to accept or reject a proposed agreement. The role of the mediator is to assist the parties in finding a mutually satisfactory resolution to the problem. The mediator will assist with the process and help the parties reach their own agreement.

Persons engaged as mediators shall not subsequently become engaged as investigators in those cases where they have served as mediators.

This is to ensure that, during mediation, the parties express themselves freely and openly, and to minimize concerns that information given in confidence may end up in an investigation report.

Complainants and respondents are entitled to representation during the mediation process. The representatives serve as support to ensure that the interests of the complainant and respondent are addressed in the mediated resolution.

In the event a mediated agreement is reached:



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- The terms and conditions of the agreement will be put in writing and signed by the respondent, complainant and mediator.
- The terms of the mediated agreement shall be forwarded to the Superintendent of Human Resource Services.
- The mediation agreement will be kept in a secure file (in the name of the respondent) in the office of the Superintendent of Human Resource Services for a 12-month period, unless otherwise agreed to in the mediation process.
- The Board would take no disciplinary action beyond that agreed to in the mediation process.
- The complainant and respondent will agree that the mediation is binding and final; no grievance can be filed following the mediation process.
- The complainant, respondent and the Director, unless otherwise agreed to in the mediation process, will be provided with a copy of the mediation agreement.

The mediation file will be destroyed upon the completion of a mediated agreement or completion of the investigation. It shall be the responsibility of the mediator to ensure the destruction of the mediation file upon the completion of the mediated agreement or when it is clear that a mediated agreement is not possible.



ADDENDUM 2—INVESTIGATION

Investigation

Investigations are authorized by the policy to collect, gather or copy evidence related to cases under investigation. Any evidence taken will be returned to its owner at the completion of the investigation. Access to personnel files is subject to the consent of the person to whom the file applies.

The person who investigates the complaint shall:

- Notify the alleged offender of the complaint and provide the alleged offender with information concerning the circumstances of the complaint, including a copy of the written complaint;
- Request the alleged offender to respond to the complaint in writing;
- Interview the complainant, the alleged offender, and any other persons who may have knowledge of the conduct complained of;
- Make a written report of the complaint and the results of the investigation (and any findings or recommendations deemed appropriate) to the Director or, if the Director is the respondent, to the Chair; and
- Inform the employee and the alleged offender in writing of the results of the investigation.

At any stage of the investigation, the complainant and the alleged offender may choose to be accompanied by one other person of their choice.

At any stage of the investigation, the parties may choose to stay the investigation and undertake mediation in lieu. While mediation may be requested at any point during the investigation process, if the mediation does not result in resolution, the investigation will resume and will not be interrupted by further requests for mediation.

After receiving the results of the investigation, either party may make a further submission in writing, and such written submission shall be placed in the investigation file.

Where sexual harassment has been substantiated, all records relating to the complaint, and all records which emanate from the investigation, including the report to the Director (or if the Director is the respondent, the report to the Chair), shall be kept in a sealed envelope in the personnel file of the respective employees. Access to the file that contains the records relating to the complaint/investigation and records relating to the report shall be limited to the Director or designate, or where the Director is the respondent, to the Chair, the superintendent(s) that the Chair may designate.