

<p><b>Personnel and Employee Relations</b> <b>7121</b> <b>Violence Prevention: Investigation</b></p>	<b>Administrative Application</b>	
	<b>Last Reviewed /Approved on:</b>	March 10, 2020
	<b>References:</b>	<p>Saskatchewan Employment Act 2014  The Education Act is referenced in the admin app.  Saskatchewan Human Rights Code  Administrative Applications  7122–Violence Prevention: Weapons  11150–Violence Prevention: Student Harassment  Policy 2 – Role of the Board  Policy 12 – Role of the Director  Policy 13 – Appeals and Hearings Regarding Student Matters</p>
	<b>Status:</b>	Operational

### Preamble

This application encourages employees who are faced with violence or threats of violence in the workplace to refer a violence 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 administrative 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

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

This application applies to all employees of the Regina Catholic School Division (RCSD). It also applies to all individuals on school property and/or all individuals involved in sanctioned events or activities.

Contractors who come on to the property of the school division are expected to respect this *Administrative Application 7121 – Violence Prevention: Investigation*. Persons who initiate the hiring of a contractor who will perform services for the school board shall ensure that all contracts include language requiring the contractor to comply with the provisions of this application. The person initiating and/or supervising the contract shall monitor compliance with the application and shall immediately report any breaches to the Director.

This violence prevention administrative application complies with all requirements that, at the time of its writing, are specified in, and mandated by, *The Saskatchewan Employment Act 2014* and *Regulations* related thereto.

### Definitions

- Harassment**  
Harassment is defined in the *Saskatchewan Employment Act 2014*,

- a. As any objectionable conduct, comment or display by a person that is directed at a worker;
  - b. Is made on the basis of race, creed, colour, sex, sexual orientation, marital status, disability, physical size or weight, age, nationality, ancestry or place of origin;
  - c. And, which constitutes a threat to the health or safety of the worker.
2. **Weapon**  
Anything used or intended for use in causing death or injury to persons whether designed for that purpose or not; or anything used or intended for the purpose of threatening or intimidating any person.
3. **Violence**  
Violence may include, but is not limited to threatening looks, persistent harassment, threats and verbal and/or physical assault.

### Exclusions

1. RCSD reserves all constitutional rights and obligations it has in addition to those accorded it by *The Human Rights Code*.
2. RCSD reserves the right to discriminate based on religion. *The Human Rights Code, Sec. 16(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 of education. pursuant to **The Education Act.**”*
3. Violent language 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.

### Responsibilities

1. **Employer**  
RCSD as the employer will not condone violence in the workplace. The Board will actively work towards creating and maintaining a work environment free from violence.  
  
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 violence has occurred, the Board will discipline the employee, student, parent, or other member of the public who has engaged in violence towards an employee.  
  
RCSD will make every effort, consistent with the procedures outlined in this administrative application, to resolve incidents of violence and provide support and assistance to persons subjected to violence.
2. **Supervisory Staff**  
All RCSD appointed staff are obligated to act quickly upon information concerning incidents of

violence. They are to be sensitive to issues relating to violence and the effects that such behaviour has on employees and the work environment.

Supervisory staff is directed to take appropriate action as further defined in this application when allegations of violence are made known in the manner herein defined.

**3. Employee**

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

**4. Other**

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

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

## **Prevention**

**1. General**

Violence 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.

RCSD recognizes the importance of violence and is committed to:

- a. Clarify its objectives with respect to violence and through communication and consistent application of *Administrative Application 7120 – Violence Prevention*.
- b. Support specific programs of education and awareness on violence and violence prevention.

**2. Occupational Health and Safety Committee**

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

## **Complaint Resolution Procedures**

**1. Reporting**

- a. An employee who feels that he/she has been the subject of violence is advised to immediately tell the offender to stop.
- b. If an employee knows or suspects violence is happening to a co-worker, the employee is encouraged to:
  - i. Support the co-worker, and

- ii. Encourage the co-worker to report the incident of violence as soon as possible to the appropriate authority.
- c. If an employee cannot confront the offender, or where the victim has told the perpetrator to stop, and the violence continues, the employee is advised to promptly report the conduct:
  - i. By making an informal complaint to the employee's immediate supervisor.
  - ii. By making a formal complaint, in writing, to any one of the following persons:
    - (1) The employee's immediate supervisor.
    - (2) The principal of the school.
    - (3) The designated senior administrator.
    - (4) The Director.

## 2. **Informal Complaint Resolution Procedures**

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

- a. 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:
  - i. Speak directly with the alleged offender and attempt to resolve the situation in an informal manner.
  - ii. Advise the complainant to contact the alleged offender by letter in order to discourage the alleged offender from further violence, or
  - iii. Arrange for mediation of the complaint if either party requests mediation and if both parties are willing to participate in the mediation process.
- b. The supervisor or persons to whom the alleged violence 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. 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.
- c. IF NO OTHER ALTERNATE METHOD OF DEALING WITH THE COMPLAINT APPEARS TO BE REASONABLE OR ACCEPTABLE, THE SUPERVISOR SHALL ADVISE THE EMPLOYEE TO MAKE A FORMAL WRITTEN COMPLAINT.

## 3. **Formal Complaint – Investigation**

Any employee who feels that he/she has been subjected to violence is advised to immediately tell the offender to stop.

- a. Where an employee chooses to make a formal complaint, the complaint should be filed immediately after the incident has occurred. Formal complaints must be filed

immediately of the alleged incident of violence.

- b. Formal complaints must be written and signed by the complainants, and must be remitted in the following format:
  - i. Name of Complainant.
  - ii. Home Phone Number of Complainant.
  - iii. Work Phone Number of Complainant.
  - iv. Work Place of Complainant.
  - v. Nature of Complaint.
  - vi. Respondent (Alleged offender's name).
  - vii. 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.
  - viii. 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.
  - ix. Consent—Authorize the release of information about the complaint to the respondent.
- c. The person receiving the formal complaint, if other than the Director, shall immediately report the complaint to the Director.
- d. The Director immediately upon receipt of the complaint shall facilitate investigation of the complaint. Such facilitation may include:
  - i. Contracting out the investigation.
  - ii. Appointment of a division out-of-scope staff member to conduct the investigation.
  - iii. Investigation by the Director.

**Note:** It is expected that all investigations will be conducted fairly.
- e. 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.

## General Information

### 1. Access to Other Proceedings

- a. Nothing in this administrative application shall be construed as preventing an employee from dealing with an incident of violence by:
  - i. 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.
  - ii. Filing a complaint with an Occupational Health Officer pursuant to *The Saskatchewan Employment Act 2014* which provides, in Section 3, that the employers shall ensure so far as it is reasonably practicable the employees are not exposed to harassment.
  - iii. Reporting the incident to the police or other authorities if the circumstances so warrant.
  - iv. Taking any other steps available under any other statute or law.
- b. 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.

## 2. Corrective Action

- a. Where violence has been substantiated:
  - i. The employee will be subject to appropriate discipline to encompassing a range from verbal reprimand up to and including termination of employment.
  - ii. Students will be subject to appropriate discipline as outlined in the Administrative Applications for Violence Prevention: Student Harassment and/or Violence Prevention: Weapons.
  - iii. Parents or other members of the public will be subject to appropriate action up to and including banishment from school and school property.
- b. Factors to be considered in determining the severity of the discipline may include, but need not necessarily be limited to:
  - i. The severity of the violence.
  - ii. The persistence of the violent incidents.
  - iii. Whether or not the offender, by demonstrable action, displays co-operation and willingness to change.
- c. Under normal circumstances, if a work transfer is an outcome of the case, the offender will be transferred, not the complainant.

## 3. Disciplinary Action

- a. Where violence has been substantiated:

- i. The employee will be subject to appropriate discipline to encompassing a range from verbal reprimand up to and including termination of employment.
    - ii. Students will be subject to appropriate discipline as outlined in the administrative applications for Violence Prevention: Student Harassment and/or Violence Prevention: Weapons.
    - iii. Parents or other members of the public will be subject to appropriate discipline encompassing a range from verbal reprimand up to and including banishment from school and school property.
  - b. Factors to be considered in determining the severity of the discipline may include, but need not necessarily be limited to:
    - i. The severity of the violence.
    - ii. The persistence of the violent incidents.
    - iii. Whether or not the offender, by demonstrable action, displays co-operation and willingness to change.
  - c. Under normal circumstances, if a work transfer is an outcome of the case, the offender will be transferred, not the complainant.
  - d. Where violence 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 and the complainant. With the documentation shall be included a record of the disciplinary measures taken.
  - e. Where violence has been substantiated and a student has offended against an employee, the student will be disciplined according to the administrative applications for Violence Prevention: Student Harassment and/or Violence Prevention: Weapons
  - f. Where violence 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 in the principal's confidential files. With the documentation shall be included a record of the disciplinary measures taken. A copy of the documentation and disciplinary measures taken will be provided to the parent or other member of the public.
4. **Retaliation**  
If retaliation is proven to have occurred, further disciplinary action shall take place.
5. **Complaints Made in Good Faith**  
Discipline will not be taken against an employee whose complaint of violence has not been substantiated and where such complaint was made in good faith. The Superintendent of Human Resources will destroy all written records in such cases.
6. **Malicious and/or Frivolous Complaints**  
Malicious and/or frivolous complaints of violence will be viewed as serious offences by RCSD and will result in disciplinary action against the complainant and a record of such disciplinary action will be documented in the personnel file of the complainant.

**7. Confidentiality**

Receipt of a complaint will be held in strict confidence. RCSD 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*.

**8. Implementation**

It is the responsibility of RCSD to:

- a. As soon as is practicable following implementation of the administrative applications for violence prevention, RCSD shall provide, for members of Occupational Health and Safety, violence 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.
- b. RCSD 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:

- 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 Human Resource Services Superintendent.
- The mediation agreement will be kept in a secure file (in the name of the respondent) in the office of the Human Resource Services Superintendent for a 12-month period, unless otherwise agreed

to in the mediation process.

- RCSD 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 administrative application 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 Board 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.

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

Where violence 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 Board Chair), shall be kept in a sealed envelope in the personnel file of the respective employees. Access to the file, which 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 Board Chair, the superintendent(s) that the Chair may designate.