



Harassment/Objectionable Behaviour

Board Received: September 2015

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Policy Statement

The Grand Erie District School Board (the “Board”) is committed to providing a working and learning environment in which all individuals are treated with respect and dignity. Beyond the provisions of the *Ontario Human Rights Code*, every individual has an equal right to learn and work in an environment that is free from harassment and objectionable behaviour.

The Board recognizes the value of establishing and maintaining respectful working and learning environments and of responsiveness to the damaging effects of harassment and objectionable behaviour. The Board will not tolerate harassment or objectionable behaviour from any person in the workplace. The following definitions, applications, duties, responsibilities and procedures have been developed to ensure that workplace disputes attributed to harassment and objectionable behaviour are dealt with expeditiously.

Accountability:

1. Frequency of Reports – Annual
2. Criteria for Success – Promoting a positive workplace environment
 - Reduction in reported harassing or objectionable behavior
 - The policy is reviewed by the Joint Occupational Health and Safety Committee annually

1.0 **Definitions**

1.1 **Harassment/Workplace Harassment**

Harassment/Workplace Harassment means engaging in a course of vexatious comment or conduct which is known or ought reasonably to be known to be unwelcome pursuant to the *Ontario Human Rights Code* and the *Occupational Health and Safety Act (OHSA)*. Harassment/Workplace Harassment can include sexual harassment.

1.2 **Objectionable Behaviour**

Objectionable Behaviour is often, but not always, persistent, ongoing vexatious conduct towards an individual in the workplace which might reasonably be known to be unwelcome. Bullying, misuse of power or a single serious act or expression can constitute objectionable behaviour.

1.3 **What is NOT Objectionable Behaviour or Workplace Harassment?**

Reasonable action or conduct by a manager or supervisor that is part of his or her normal work function will not be considered objectionable behaviour or workplace harassment. This is the case even if there are sometimes unpleasant consequences for a worker. Examples may include changes in work assignments, scheduling, job assessment and evaluation, workplace inspections, relationships between consenting adults which are voluntary and are based on mutual attraction, and disciplinary action. Differences of opinion or minor disagreements between co-workers will also not be considered objectionable behaviour or workplace harassment. In addition, any behaviour that would meet the definition of workplace violence is addressed in policy HR8.

1.4 **Working and Learning Environment**

The working and learning environment is any place where employees, students and other users perform work or work-related duties or functions (including social functions). Schools and school-related activities, such as extracurricular activities and excursions, comprise this environment, as do Board offices and facilities. Conferences and training sessions fall within the scope of this policy.

1.5 **Workplace**

Workplace is defined as all work activities that occur while on Board premises, or while engaging in workplace activities or workplace social events.

1.6 **Employee, Other Users**

Employee includes all persons employed by the Board. The words other users include all persons, who are neither students nor employees while on Board premises or attending Board or school programs/functions at other premises or in a business/social community relationship with the Board.

2.0 **Application**

This Policy on Harassment/Objectionable Behaviour applies to all Board employees, trustees and other visitors, such as members of consultative committees, clients of the Board, parents, volunteers, permit holders, contractors, and employees of other organizations not related to the Board but who nevertheless work on or are invited onto Board premises.

The rights of students to a respectful working and learning environment, free from harassment and objectionable behaviour, are dealt with under other appropriate policy, legislation or regulations including but not limited to the Board's Code of Conduct, *Safe Schools Act* (now Section XIII of the *Education Act*) and Professional Codes of Conduct.

3.0 **Duties and Responsibilities**

- 3.1 The Board values inclusiveness, responsibility, respect, integrity and relationships in a safe learning and teaching environment. All persons in its learning/working environment will:
- a) respect differences in people, their ideas and opinions;
 - b) treat one another with dignity and respect at all times, and especially when there is disagreement;
 - c) respect the rights of others;
 - d) show proper care and regard for Board property and for property of others;
 - e) demonstrate honesty and integrity; and
 - f) respect the need of others to work in an environment of learning and teaching.
- 3.2 All members of the Board community are accountable for complying with this policy and maintaining an environment free of harassment and objectionable behaviour. The Board expects that all persons in its learning/working environment will:
- a) be aware of and sensitive to issues of harassment and objectionable behaviour;
 - b) support individuals who are, or have been targets of harassment and objectionable behaviour;
 - c) prevent harassment and objectionable behaviour through training;
 - d) take all allegations seriously and respond promptly;
 - e) provide positive role models; and
 - f) not demonstrate, allow or condone behaviour contrary to the Policy, including reprisal.
- 3.3 All those who are covered by this Policy have a right to report harassment and objectionable behaviour and are entitled to have access to the dispute resolution processes. Every attempt should be made to resolve matters through an informal resolution. The first step is to inform the individual that their behaviour is unwelcome and must stop immediately. Many disputes can be resolved quickly and effectively using this approach. In order to stop such conduct, supervisory and managerial personnel must address and attempt to resolve disputes in a timely fashion.

Procedures:

1.0 **General**

In accordance with the Policy, these Procedures provide a mechanism for dealing with complaints of harassment and objectionable behaviour occurring in the working and learning environment.

Nothing in these Procedures denies or limits an employee's right to approach the Human Rights Tribunal, initiate legal proceedings, contact the police or any other avenues of redress available under the law or through the filing of a grievance or through progressive discipline.

If the complainant takes a case to the Ontario Human Rights Commission or decides to initiate legal proceedings, the Board's harassment procedures may be suspended until the alternative process is completed. Whenever the complainant initiates action through the legal system, the issue becomes a private matter between the complainant and the alleged harasser, including costs incurred.

1.1 Who May Initiate a Complaint?

Board employees who believe that they have been subjected to such conduct may report the harassment or objectionable behaviour as per 2.1 or 4.2. In addition, those who have witnessed harassment or objectionable behaviour directly, or have reasonable grounds to suspect that it is occurring, may initiate a report. Anonymous reports will not be entertained for dispute resolution under these Procedures. Third party disclosures will only go forward (to the formal stage) with the victim's consent.

1.2 Threshold Assessment

All formal reports filed shall be subject to an immediate threshold assessment to determine whether the alleged conduct would, if proven, meet the definition of harassment or objectionable behaviour.

If it is determined, following this threshold assessment, that the report filed:

- a) would not, if true, meet the definition of harassment or objectionable behaviour;
- b) does not provide sufficient details of the alleged behaviour (provided the complainant is given notice that insufficient details have been provided and given reasonable time to provide sufficient details); or,
- c) is vexatious, frivolous or trivial, has not been made in good faith or would, if investigated, constitute an abuse of the Policy.

Then the complainant shall be so advised and no further action shall be taken under this Policy and disciplinary action may be taken

1.3 Education and Prevention

In order to promote a harassment-free environment, all employees should be aware of the relevant Board policies and procedures, this would include, but is not limited to, SO10 Bullying Prevention and Intervention, SO12 Code of Conduct and SO14 Equity and Inclusive Education. Employees should know how to report incidents of harassment and objectionable behaviour and how the incident will be investigated and dealt with. Employees will be made aware of this policy and procedure by:

- a) Annual awareness activity will be conducted by all principals/supervisors
- b) Pamphlets
- c) Policy and procedure will be posted in a conspicuous location in the workplace
- d) New employees will be made aware of the Board's policy and procedure

Principals shall ensure that staff, parents and school communities will be made aware of this policy and procedure through the school website and communication such as the following statement to appear annually in a school newsletter:

The Grand Erie District School Board is committed to providing a working and learning environment that is free of harassment and objectionable behaviour, which supports productivity and the personal goals of dignity and self-esteem of every individual. The Board expects all students, staff and visitors to behave in a respectful, courteous and appropriate manner at all times. The Board will not tolerate any forms of harassment or objectionable behaviour. The Board will respond to all forms of unacceptable behaviour in a manner consistent with the Board Policy and Procedure on Harassment/Objectionable Behaviour and the response will be appropriate to the harassment or objectionable behaviour incident. To view this Policy/Procedure, please

visit the Board's website at www.granderie.ca, select the drop-down menu titled 'Board', then 'Bylaws, Policies and Procedures', then 'Policies' and finally 'HR5'.

Information regarding this policy/procedure will be made available on the Board website.

2.0 **Informal Resolution**

- 2.1 Supervisory and managerial personnel may become aware of harassment or objectionable behaviour in the working or learning environment in different ways. They may observe harassment or objectionable behaviour directly or receive a report from the individual affected or they may receive reports from third parties. It is important that supervisory and managerial personnel pay attention to symptoms arising out of possible harassment or objectionable behaviour such as reduced productivity, changes in behaviour, absenteeism, and requests for transfers or rumours. Without assistance, the employee may be embarrassed or reluctant to report a situation.

A speedy resolution of a complaint can prevent escalation and further negative consequences while promoting restoration of a healthy learning and working environment.

Informal Resolution is a procedure that provides an opportunity for parties to resolve a dispute mutually in a respectful manner. The Board encourages supervisory and managerial personnel, as well as union/federation representatives, to first attempt Informal Resolution as a means of resolving issues.

Supervisory or managerial personnel, as well as union/federation representatives may facilitate an informal resolution by:

- a) supporting the complainant to confront the problem by making it clear to the individual alleged to have engaged in harassing or objectionable behaviour that the behaviour is not acceptable and by obtaining a commitment that the behaviour will stop;
- b) informing the individual of the complainant's concern regarding the alleged harassing or objectionable behaviour and the Board's expectation for appropriate behaviour, providing a copy of the Board's Policy and Procedures on Harassment/Objectionable Behaviour and/or other relevant Board policies, and obtaining a commitment that the behaviour will stop;
- c) following up with the complainant to ensure that the behaviour has stopped.

In cases where an informal plan of action is implemented, supervisory and managerial personnel shall follow up by monitoring the situation, holding, if necessary, subsequent meetings with the parties and taking further steps to ensure that the harassing or objectionable behaviour has stopped.

Where disputes are resolved informally, there will be no formal reports about such disputes. Every effort will be made to protect the privacy of individuals.

For informal complaints, where the parties are members of a union, federation, association or the school community, a resolution facilitated by the appropriate representative(s) in concert with the supervisor, is recommended.

2.2 Mediated Resolution

Mediation involves an unbiased third party acting as a facilitator in direct communication between the parties who voluntarily agree to enter into this process. It is an opportunity to resolve disputes in a respectful manner. It provides the opportunity to generate a variety of options for resolution and contributes to restoring the working relationship between the parties.

Where there is already a formal complaint being investigated under these procedures, at any time during the investigation, the parties may agree to hold the investigation in abeyance and attempt to achieve a mediated resolution. Mediation will only occur if the employer agrees to using it as an option in resolving a particular dispute.

Mediation is appropriate when all parties agree that a mutually agreeable solution is achievable and desirable. The Superintendent of Education (Human Resources), or designate, will be responsible for obtaining the mediator, in consultation with the parties.

Meetings required for mediation sessions shall be scheduled as soon as possible and, where practical, in a time and place convenient for the complainant, the respondent and the mediator.

When matters are resolved through mediation, the complainant and the respondent will sign a memorandum of agreement outlining the terms to which they have agreed. Supervisory and managerial personnel shall ensure that the terms that the parties have agreed to have been met.

Mediation is voluntary and the complainant or the respondent may choose to withdraw at any time.

3.0 Formal Resolution Complaint Handling Procedure

- 3.1 While the complaint is being investigated, the Board will take appropriate measures to ensure that the learning and working environment for all parties involved is safe and free from harassment and objectionable behaviour.
- 3.2 The successful resolution of concerns and complaints is often determined by the way in which they are handled. The existence of a process with detailed procedures and guidelines is critical to ensure that all complaints are dealt with in a consistent and fair manner which allows flexibility to accommodate different situations, circumstances, and needs.
- 3.3 The harassment of an individual is viewed as a serious matter and may be subject to a range of disciplinary measures by the Board.
- 3.4 While the Board provides a process by which individuals may proceed with complaints of harassment or objectionable behaviour, any person may approach the Ontario Human Rights Commission, subject to provisions set out in the *Code*, initiate legal proceedings, contact the police, or Ministry of Labour, at any time. If the complainant takes a case to the Ontario Human Rights Commission or decides to initiate legal proceedings, the Board's procedures may be suspended until the alternative process is completed. Whenever the complainant initiates action through the legal system, the issue becomes a private matter between the complainant and the alleged harasser, including costs incurred.
- 3.5 The complaint procedure is preventative in intention. Therefore, the process may stop and the parties may agree to an alternate dispute resolution process at any of the steps if

- agreed to by the complainant, respondent (alleged harasser), and Superintendent of Education (Human Resources), or designate.
- 3.6 Every attempt will be made throughout the investigative procedure to respect confidentiality.
 - 3.7 If the complaint is against the person identified as an investigator, the complainant should proceed directly to the Superintendent of Education (Human Resources) or the Director.
 - 3.8 Both the complainant and the respondent will be advised that they have the right to have present at any meeting a Federation/Union/Association/Council representation and/or a friend.
 - 3.9 Any time limits outlined in this procedure may be extended, if mutually agreed by the parties concerned.
 - 3.10 The steps listed below in Section 4.2 represent the official formal procedure of the Grand Erie District School Board for resolving a complaint concerning harassment or objectionable behaviour. This procedure is not intended to preclude employee rights which are covered under a collective agreement. It should be understood, however, that if a grievance is in process under a collective agreement, the procedures herein set out will be held in abeyance.

4.0 **Formal Resolution Complaint Procedure for Harassment/Objectionable Behaviour of Employees by Employees**

This Procedure anticipates an active and supportive role of the various unions and associations which represent the employees. All union/association employees are encouraged to seek the assistance and advice of their union/association representatives prior to engaging in, or at any time throughout, the complaint process.

4.1 **Step One**

It is strongly recommended that the complainant, or a representative of the complainant (eg. principal/supervisor, friend, colleague and/or union/association representative), make known to the alleged harasser that the conduct/behaviour of the person is considered harassment or objectionable behaviour and is unwelcome, and request that the offending behaviour cease immediately. If the complainant is not comfortable initiating the process at Step One, or there is a recurrence of the inappropriate behaviour, the process moves to Step Two.

4.2 **Step Two**

At this point, the Superintendent of Education (Human Resources), or designate, will advise both the complainant and the respondent of the right to union/association representation.

- a) The complainant shall inform the Superintendent of Education (Human Resources), or designate, in writing as soon as possible after the date of the alleged incident, and shall specify the particulars of the incident and the name(s) of the person(s) involved (see Appendix A for form).
Where a Superintendent is the alleged harasser, the Director of Education shall conduct the investigation or may bring in a 3rd party.
- b) The Superintendent of Education (Human Resources) or designate will provide the respondent with the written formal complaint within five (5) working days of its receipt.

- c) The Superintendent of Education (Human Resources), or designate, shall notify both the complainant and respondent in writing that the formal complaint has been received and that the investigative process has commenced.
The Superintendent of Education (Human Resources), or designate, will again make the complainant and respondent aware of their right to union representation.
- d) The Superintendent of Education (Human Resources), or designate, initiates the investigative process. The process will be as follows:
 - i. interview with complainant;
 - ii. interview with respondent;
 - iii. interview with witnesses;
 - iv. consideration of evidence;
 - v. re-interview with complainant or respondent or both (if necessary).

The Superintendent of Education (Human Resources), or designate, shall meet with both the complainant and respondent individually (or jointly with the agreement of the complainant) within ten (10) working days of receipt of the written complaint to investigate the validity of the complaint. Interviews will be held with witnesses within the twenty (20) working days of receipt of the written complaint.

- e) Within twenty-five (25) working days of receiving the written complaint, the Superintendent of Education (Human Resources), or designate, shall compile a draft Summary Report. The standard of proof to be applied is the balance of probabilities.
- f) Within five (5) working days of completion of the draft Summary Report the Superintendent of Education (Human Resources) or designate shall provide the Report to both the complainant and respondent, who shall have five (5) working days in which to respond to the Superintendent of Education (Human Resources), or designate, in writing.
- g) Within five (5) working days of the response from the complaint and respondent in (f) above, the Superintendent of Education (Human Resources), or designate, shall make any further inquiries or amendments, if required, in order to prepare a final Summary Report, which will describe the incident and what actions, if any, are required to achieve compliance with the harassment/objectionable behaviour policy/procedure in respect of the complaint (eg. education/training, disciplinary action as per HR119, and/or redress) and future expected behaviour and/or practices. Copies of the Summary Report will be sent to both the complainant and respondent within ten (10) working days of finalizing the draft report.
- h) Where the Superintendent of Education (Human Resources), or designate, finds no facts to substantiate the allegations and the complaint was not frivolous, vexatious, false or in bad faith, this finding will be reflected in the Summary Report. Where the Superintendent of Education (Human Resources), or designate, finds that the complaint was frivolous, vexatious, false or in bad faith, the Summary Report will recommend appropriate discipline for the complainant.
- i) At the request of the complainant, respondent or Board, the Superintendent of Education (Human Resources), or designate, will meet to review the contents of the Report. Where the Report identifies disciplinary action against a party, the disciplinary action shall be conveyed, discussed, and confirmed at this meeting with the employee involved and a union representative.
- j) The grounds for review are:
 - i. the investigator failed to comply with these Procedures;
 - ii. new evidence becomes known after the final decision but within ten (10) working days of the issuing of the final Summary Report (in (i) above);
 - iii. discipline imposed

No review of the final decision will be undertaken with regard to the claim that the conclusions drawn by the investigator based on findings of fact were incorrect. In the case of an employee who is a member of a bargaining unit, the matter may be grieved in accordance with the procedure set out in the appropriate collective agreement.

In the case of an employee who is not a member of a bargaining unit, the matter may be appealed in accordance with existing policies or procedures appropriate to that individual (see Human Resources HR Policy/Procedure HR2).

- l) Notwithstanding the above procedures, the parties may agree to an alternate dispute resolution process at any point during the complaint procedure.
- m) Reprisals against individuals because they have reported a complaint are strictly forbidden. Alleged reprisals shall be investigated as formal complaints and, if substantiated, are subject to the same consequences as complaints of workplace harassment or objectionable behaviour.

4.3 Records

All correspondence and other documents generated under these procedures must, subject to the *Municipal Freedom of Information and Protection of Privacy Act*, be marked “Private and Confidential” and must be stored in a secure manner in the Human Resources Department for seven (7) years from the date of the final decision or review. All electronic versions must be erased. If after seven (7) years, there is no litigation, investigation or further activity under these procedures involving a party to the original complaint, all records of the complaint will be shredded.

4.4 Confidentiality

- a) It is the duty of the Board and supervisory/managerial personnel to make every effort to maintain strict confidentiality in the complaint process. All complainants, respondents, and other persons involved with the complaint processes under these procedures have a responsibility to ensure that all matters remain confidential. The obligation to maintain confidentiality does not prohibit any party to a complaint from obtaining advice or counsel or from speaking to any union/association representative or the respondent/complainant’s supervisor(s) as required. This also pertains to communication to supervisors/managers with regards to the implementation of a resolution.
- b) The Board may be required to provide information obtained during an investigation to an outside agency that has the right to require information otherwise protected by the *Municipal Freedom of Information and Protection of Privacy Act*. Examples of such agencies are the Ontario Human Rights Commission, another tribunal, or court.

4.5 Contacts and Supports

- a) ETFO Office – (519) 753-9291 or 1-888-753-9291
- b) OSSTF Office – (519) 426-8545
- c) CUPE President – 226-250-3105
- d) Board – Superintendent of Education (Human Resources) - (519) 756-6301
- e) Board – Manager of Human Resources - (519) 756-6301
- f) Human Rights Commission, Toronto Office – (416) 326-9511 or 1-800-387-9080
- g) Ministry of Labour, Call Centre – 1-877-202-0008

5.0 Formal Resolution Complaint Procedures for Harassment of Employees by Visitors**Complaint Procedures**

- a) An employee who believes that he/she has been harassed by a visitor shall complete the form entitled “Harassment of an Employee by a Visitor” (Appendix B) and submit it to their supervisor as soon as possible after the incident(s).
- b) Within five (5) days of receipt of Appendix B, the supervisor or designate will provide a copy of Appendix B to the respondent.
- c) An investigation will be conducted by the supervisor and feedback provided to the complainant, within five (5) school days by his/her supervisor.
- d) Timelines may be extended upon mutual consent of the parties.
- e) Should the investigation indicate that the complaint has merit, the supervisor shall notify his/her supervisor and do any or all of the following:
 - i. meet with the individual to outline and resolve concerns
 - ii. provide a copy of the harassment pamphlet
 - iii. send an access to property letter
 - iv. recommend the cancellation or non-renewal of permits/contracts (in the event that the perpetrator is a permit holder, contractor or service provider)
 - v. limit access to that work site

Appendix A

Grand Erie District School Board

Workplace Harassment – Formal Complaint Form (Employees)

Private and Confidential

Complainant(s)		Job Title	
Workplace		Phone Number	

Name(s) of Person(s) Accused of Harassment

Description of Alleged Harassment (set out all facts, in chronological order, on which complaint is based, including dates and times and location, the identity of any witnesses, and a description of the steps, if any, already taken to resolve the matter. Attach additional pages if necessary.)

Resolution Requested

I have contacted the following with regard to the incident(s)	
Supervisor	
Union/Association	
Other (Please specify)	

Complainant(s) Signature(s)		Date	
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NOTE: When the complainant and the respondent are both teachers, the complainant must meet the reporting obligations of Section 18(1)(b) of the Regulation made under the *Teaching Profession Act*.

INSTRUCTIONS FOR SUBMITTING THIS FORM

Place this form in a sealed envelope marked “**PRIVATE AND CONFIDENTIAL**” and forward to the Superintendent of Education (Human Resources).

Appendix B

**Grand Erie District School Board
Formal Complaint Form - Harassment of an Employee by a Visitor**

Private and Confidential

Complainant(s)		Phone Number	
Relationship to the Respondent		Work Location	

Name(s) of Person(s) Accused of Harassment

Status (e.g. parent, service provider)

Description of Alleged Harassment (set out all facts, in chronological order, on which complaint is based, including dates and times and location, the identity of any witnesses, and a description of the steps, if any, already taken to resolve the matter. Attach additional pages if necessary.)

Resolution Requested

I have contacted the following with regard to the incident(s)	
Supervisor	
Union/Association	
Other (Please specify)	

Complainant(s) Signature(s)		Date	
Complainant(s) Signature(s)		Date	

<p><u>INSTRUCTIONS FOR SUBMITTING THIS FORM</u> Place this form in a sealed envelope marked “<i>PRIVATE AND CONFIDENTIAL</i>” and forward to your supervisor as soon as possible after the incident(s).</p>
