



Harassment Prevention (WSH)

Administrative Procedure 8.92

Cross Reference: Policy 1, 2, 3, 16, 17

Legal Reference: MB. Human Rights Commission, MB. W S & H Act Part 10

Date Adopted: April 2005

Date Amended: September 2006, October 2010; June 2018, April 2019

Evergreen School Division is committed to maintaining a learning and working environment free from harassment. The Division requires employees, students, parents, volunteers and visitors to conduct themselves in a manner that promotes and protects the best interests and well-being of students, staff and others. The principle of fair treatment is a fundamental one and the Division will not condone any improper behaviour that jeopardizes dignity, undermines learning, working relationships or productivity.

Harassment is unacceptable; it attacks the dignity and self-respect of that person and constitutes a serious infraction. When a student or employee exhibits harassing behaviour, disciplinary actions may result.

Evergreen School Division will take reasonable steps to ensure that employees, students, parents, volunteers, and visitors are informed and aware of the issue of harassment and the procedures to follow should they experience harassment.

Individuals have the right to take assertive action when they encounter harassment in the learning or working environment. An individual who believes he/she is being harassed by any person affiliated with Evergreen School Division shall follow the procedures set forth herein.

The ***Harassment Prevention Procedure*** applies to, but is not limited to

- all schools and Division properties;
- school or Division sponsored social functions;
- employment or school assignments outside of a school or other Division facilities;
- employment or school-related conferences or training sessions;
- employment or school-related travel; and
- communication mediums (Internet, telephone, mail).

DEFINITIONS

DEFINITION: HARRASSMENT

Harassment may be written, verbal, physical, a gesture or display, or any combination of these.

Consistent with the Human Rights Code, and the characteristics referred to in that Code in Subsection 19(2), harassment is a course of abusive and unwelcome conduct or comment undertaken or made on the basis of any of the following:

- ancestry, including colour and perceived race;
- nationality or national origin;
- ethnic background or origin;
- religion or creed, religious belief, religious association or religious activity;
- age;
- personal appearance: size, features
- sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy
- gender
- sexual orientation
- marital or family status
- source of income
- political beliefs, association or activity
- physical or mental disability or reliance on supportive devices and the like
- medical circumstances or illness

DEFINITION: SEXUAL HARASSMENT

- a series of objectionable and unwelcome sexual solicitation or advances
- any repeated and unwelcome sexual comment, look, suggestion, or physical contact that creates an uncomfortable working or learning environment for the recipient
- it is made by a person who knows, or ought to reasonably know, that such attention is unwelcome
- sexual harassment may also be a single sexual advance, particularly one by a person in authority, that includes or implies a threat and/or a reprisal after a sexual advance is rejected
- some examples of sexual harassment are:
 - unwanted, persistent or abusive sexual attention;
 - sexually oriented behaviour or remarks;
 - demeaning remarks based on gender;
 - suggestive jokes about sex;
 - sexually-oriented verbal “kidding” or verbal abuse;
 - inappropriate comments about clothing, physical characteristics, or activities;
 - leering, ogling, and suggestive or insulting sounds;
 - unwanted questions or comments about one’s private life;
 - unwanted physical contact, such as brushing up against one’s body, patting, grabbing, or pinching;
 - sexual assault (an offence under the Criminal Code);
 - subtle pressures for sexual activity;
 - suggestion or demands for sexual favours;
 - expressed or implied promise of reward for complying with a sexually oriented request;

- the display of pornographic and/or exploitative pictures, cartoons, and graffiti, including pictures and/or messages on clothing, in the schools and on other school division premises

DEFINITION: RACIAL HARASSMENT

- words used, or actions taken in an abusive or persistent manner by anyone, such that another person is disparaged or caused to feel humiliation because of their race, colour, creed, ancestry, place of origin, or ethnic origin
- racial harassment may be overt or subtle, explicit, or in a disguised form such as humour or joking
- some examples of racial harassment are:
 - slurs, gestures, name-calling, innuendoes or taunts about another's racial or ethnic background made directly to the person or indirectly to others;
 - unwelcome banter, "teasing" or jokes that are racially derogatory or present stereotypical portrayals of racial or ethnic groups;
 - displaying racist, derogatory or offensive pictures, materials, or graffiti;
 - refusing to study with, work with, or have contact with, an employee, volunteer, or student in the work/school setting because of his or her racial or ethnic background.

DEFINITION: OTHER FORMS OF HARASSMENT

- another form of harassment is bullying; this may involve severe, repeated conduct that adversely affects a person's psychological or physical well-being and could cause one to feel humiliated or intimidated, or a single occurrence, if it is shown to have a lasting, harmful effect
- other forms of harassment also include discrimination, (overt, subtle, and covert) on the basis of gender, sexual orientation, disability or economic/social status
- some examples are:
 - negative comments about the general unsuitability of an individual's or a group's educational or career goals to which they aspire; for example, generalizations about women's "proper place" or lack of ability in particular areas;
 - derogatory comments about an individual's or a group's moral, intellectual, economic, or social status;
 - unwelcome conduct or comment undertaken or made on the basis of medical circumstances or illness;
 - unwelcome conduct or comment undertaken or made on the basis of physical appearance/attributes;
 - taunting, teasing, criticizing, or demeaning remarks about individuals, or group members as a category;
 - individual or group behaviour that is intimidating or threatening;
 - stalking;
 - unwanted or persistent invasion of personal space;
 - hazing.

DEFINITION: WHAT IS NOT HARASSMENT

- reasonable, actions by administrators or supervisors to help manage, guide or direct workers or the workplace are not harassment
- appropriate employee performance reviews, counselling or discipline by a supervisor or administrator is not harassment

DEFINITION: COMPLAINANT

- refers to the individual who believes he/she is being harassed and/or the individual who has filed a complaint of harassment (this may be a staff member, student, parent, volunteer, visitor, etc.)

DEFINITION: RESPONDENT

- refers to the individual alleged to be the harasser and/or the individual against whom the complaint has been made (this may be a staff member, student, parent, volunteer, visitor, etc.)

RIGHTS AND RESPONSIBILITIES

STUDENT/EMPLOYEE:

- is entitled to a learning/working environment that is free of harassment
- has the responsibility to treat others with respect
- is asked to report any harassment experienced, or witnessed to Principal/Supervisor
- has the responsibility to co-operate in the investigation of a harassment complaint
- is asked to keep details of any conversations/investigations confidential
- has the right to file a complaint with applicable agencies such as the Manitoba Human Rights Commission, Collective Bargaining Association, or to seek other redress as provided under the law

EMPLOYER:

- must ensure, as much as possible, that no student/employee is harassed in the learning/working environment
- will respond to all harassment complaints
- must maintain **confidentiality**
- are not to disclose the name of a complainant or an alleged harasser or the circumstances of the complaint to anyone except where disclosure is:
 - necessary to investigate the complaint
 - a part of taking corrective action
 - required by law

COMPLAINT PROCEDURE

GENERAL INFORMATION

- all complaints of harassment will be acted upon in accordance with this procedure
- confidentiality will be respected, but when necessary, information will be shared on a need to know basis with affected and/or involved individuals
- information may come via a witness or third party to an incident of harassment
- complainants will be advised on the extent to which information may need to be shared and with whom
- an investigation will be conducted of all complaints of harassment
- for staff, documentation involving harassment complaint will be kept separate from the employee's personnel file pending resolution of the complaint
- for students, documentation involving harassment complaint will be kept separate from the student's cumulative file pending resolution of the complaint
- in the event the allegations are substantiated through investigation, any related documentation shall be kept at the Division Office:
 - for staff, in the employee's personnel file at the Division office;
 - for students, in a personal file with a general reference in the student's cumulative file to the complaint and contact person for information
- in the event the allegations are not supported through investigation, any documentation must be maintained by Principals/Supervisors in a sealed envelope and destroyed when student/employee leaves Division
- anyone who retaliates in any way against a person who has complained of harassment will be subject to corrective/disciplinary actions

RESPONDING TO HARASSMENT

Individuals may choose to respond to feeling harassed **informally** by communicating (verbally or in writing) directly with the person who is believed to be the alleged harasser (i.e. the respondent)

- whenever possible the complainant should inform the respondent that his/her behaviour or action is not welcome and request the unwanted behaviour be stopped
- while it is preferable that objections to harassment be voiced to the offender, it is not a prerequisite to filing a complaint
- if complainant is a student, he/she may choose to involve a staff member, ideally the counsellor, in communicating with the respondent

Individuals may choose to respond to feeling harassed **formally**.

- individuals are encouraged to identify their concerns in a timely manner however, individuals may lodge a complaint at any time they feel they are being harassed
- the complainant (employee or student) must be prepared to share the nature and details of the complaint with Principal/Supervisor
- if this person is the one named in the complaint, complainant should contact an alternate Divisional authority

- **8.92A Harassment Documentation** should be completed
- once completed, **8.92A Harassment Documentation** needs to be submitted to Principal/Supervisor
- Principal/Supervisor will then initiate an investigation using **8.92A Harassment Documentation** to guide their actions

INVESTIGATION: GUIDELINES

Principal/Supervisor will

- ensure individual has completed and signed their portion of using **8.92A Harassment Documentation**
- have a **pre-investigative meeting** with the complainant to acknowledge receipt of the complaint and outline the procedure that will be followed; this meeting is *not* for clarification or questioning; this happens during the interview process when 3rd party is present
- notify the respondent of the complaint and the procedure that will be followed
- notify the parent(s)/guardian(s) if complainant or respondent is a student under 18 years of age
- advise individuals to be interviewed of their right to have a third - party present during their interview if they desire so
- arrange interview of all parties involved in the following order:
 - complainant
 - respondent
 - witnesses identified by the complainant (if any)
 - witnesses identified by the respondent; if any or if different from those identified by the complainant
- arrange a school – based or Division – based 3rd party to be involved in all interviews; individual selected will depend on nature of complaint and individuals involved
- conduct interviews in a private location and record objective notes; use direct quotes where possible
- make decision as to whether to consult with Assistant Superintendent (if complaint involved an employee) and Student Services (if complaint involved a student); they may know of previous incidents, if any
- if the unwanted behaviour continues while under investigation, complainant needs to document and inform Principal/Supervisor
- if complaint involves an individual under the legal age of majority and may be construed as child abuse, it shall be dealt with according to the applicable legislation and **Procedure 8.10 Abuse: Suspected Child Abuse**

RESOLUTION/FOLLOW UP

- will depend on the nature of the complaint, the level of harassment and whether individual has had any past harassment complaints
- may include counselling, mediation, counsellor involvement, training, disciplinary action, etc. as warranted/available

- if at end of resolution/follow up process, complainant is not satisfied with outcome, the matter will be referred to the Superintendent or designate for further consideration/action
- findings, follow – up actions, next steps, must be documented on **8.92A Harassment Documentation**
- once complete, a copy is to be submitted to ESD Superintendent and ESD Safety Officer

Principals/Supervisors who do not appropriately respond to harassment or harassment complaints, may leave themselves and their employer open to legal consequences and possible discipline by Evergreen School Division.