



## **Harassment**

### **School Division Commitment**

The Park West School Division Board is committed to providing a safe and respectful work environment for all staff. No one, whether an administrator, teacher, support staff employee, or a member of the public, has to put up with harassment for any reason, at any time. Also, no one has the right to harass anyone at work or in any employment situation. This procedure is one way to ensure our workplace within Park West is a comfortable place for all our employees.

### **Harassment is Against the Law**

The Workplace Safety and Health Regulation, M. R. 217/2006, and The Human Rights Code require Park West to ensure our workplace is free from harassment. All employees have a right to live and work without being harassed. This procedure outlines what to do if you are harassed at work or if you as an administrator or employee, become aware of any harassment.

N.B. Student to student harassment resolution is considered to be an in-school matter to be dealt with by the school principal under the investigation and disciplinary measures established within the school and, therefore, is not a part of this procedure.

### **What Constitutes Harassment**

Usually, harassment can be distinguished from normal, mutually accepted socializing. It is important to remember that the perception of the receiver of the potentially offensive message or action determines whether it is acceptable or not.

Harassment can take place in the workplace or outside of it in a situation connected to work, such as during trips, off-site meetings, or any type of extra-curricular activity. Harassment will not be tolerated in the workplace or at any work related event.

- I. Consistent with the Human Rights Code (Manitoba), Subsection 19(2) harassment is defined as:
  - A. A course of abusive and unwelcome conduct or comment directly related to the following:
    1. Ancestry, including color and perceived race;
    2. Nationality or national origins;
    3. Ethnic background or origin;
    4. Religion or creed or religious belief, religious association or religious activity;
    5. Age;
    6. Sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;



7. Gender determined characteristics or circumstances other than those included in 6, above;
  8. Sexual orientation;
  9. Marital or family status;
  10. Source of income;
  11. Political belief, political association or political activity;
  12. Physical or mental disability or related characteristics or circumstances, including reliance on a guide dog or other animal assistant, a wheel chair, or any other remedial appliance or device.
- B. A series of objectionable and unwelcome sexual solicitations or advances;
- C. A sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome;
- D. A reprisal or threat of reprisal for rejecting a sexual solicitation or advance.
- E. In addition, the Division also recognizes a course of abusive and unwelcome conduct or comment undertaken or made on the basis of medical circumstances or illness as harassment.
- F. Severe conduct that adversely affects a worker's psychological or physical well-being.

For the purpose of the definition "harassment" in Section I, conduct is:

- a) objectionable, if it is based on race, creed, religion, color, sex, sexual orientation, gender-determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry, or place of origin; or
  - b) Severe, if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.
- II. Sexual harassment, as defined above, may include but is not limited to:
- a. Sexually oriented verbal kidding or verbal abuse.
  - b. Subtle pressure for sexual activity.
  - c. Unwelcome touching such as patting, pinching, squeezing or repeated brushing against another's body.
  - d. Suggestions or demands for sexual favors.
  - e. Displaying derogatory materials such as pictures or cartoons which denigrate women, men or children.
  - f. Ongoing derogatory remarks, jokes, innuendoes, propositions, teasing or threats.



## **Personal and Psychological Harassment**

Personal and psychological harassment is also known as “bullying” and can include abuse of authority. This consists of abusive and unwelcome comments and behaviours or actions that offend, abuse, intimidate, humiliate, demean, or cause loss of dignity to an individual and can often have the effect of interfering with a person’s work performance. Personal harassment can take place between peers, and it can take place between individuals where there is a power imbalance.

### **Bullying**

Bullying: occurs when there is a power difference or imbalance between the bully and the victim. Bullying can be a complex, unprovoked, aggressive act (verbal, physical, social or psychological) that typically is repeated over time, but it may also be a onetime event, with the intent of a person or group in a position of power, to oppress, hurt, or abuse undue stress to a victim, psychologically, socially, emotionally, or physically.

Acts of bullying can be directly or indirectly focused on the victim and include direct or indirect verbal, physical, and social acts of aggression, which also includes willful acts or attacks on the personal property of a victim.

Acts of bullying can also include acts to hurt based on ability, culture, ethnicity, gender, sexuality, sexual orientation, physical appearance, age, religion, socioeconomic status, and willful acts on the personal property of a victim.

### ***Cyberbullying***

Cyberbullying is the use of information and communication technology to bully, embarrass, threaten or harass another student/person. It also includes the use of information and communication technology to engage in conduct or behaviour that is derogatory, defamatory, degrading, illegal, and/or abusive.

Cyberbullying consists of covert, psychological bullying, conveyed through the electronic mediums such as (but not limited to) cell phones, texting, web-blogs, and on-line social media platforms. It may also be verbal (over the telephone or cell phone) or written (threats, racial, sexual or homophobic harassment).

## **What Does Not Constitute Harassment**

Harassment is not:

- a. Appropriate performance reviews, counseling, coaching or discipline by a supervisor or manager
- b. Day-to-day management or supervisory decisions involving work assignments or implementation of appropriate dress codes, provided they are carried out in a manner which is reasonable and not abusive.



- c. Physical contact necessary for the performance of work using industry or professional standards.
- d. Conflict or disagreements in the workplace that are not based on prohibited grounds and would reasonably be considered to be acceptable within a workplace setting,
- e. Occasional disagreements, thoughtlessness, or poor communication.
- f. Reasonable words or actions related to isolated stress or frustrations encountered in the performance of work duties.
- g. Consensual banter or conduct, or romantic relationships, where the people involved do not find it offensive or unwelcoming and consent to what is happening.

### **Employees' Rights and Responsibilities**

Employees are entitled to work free of harassment in Park West School Division.

Employees have the responsibility to treat each other with respect, and to speak up if they, or others, are being harassed. All employees have a responsibility to report harassment to the appropriate person.

Employees also have the responsibility to co-operate in the investigation of harassment complaint. Anyone who gives evidence in an investigation or who is otherwise involved in the process must keep this information confidential, except when it is necessary to deal effectively with the complaint. Employees have the right to file a complaint with the Manitoba Human Rights Commission.

### **Employers' Responsibilities**

Administration at Park West School Division must ensure, as much as is reasonably practical, that no employee is subjected to harassment in the workplace.

Administrators will take corrective action with anyone under their direction who subjects an employee to harassment.

Administrators will not disclose the name of a complainant or an alleged harasser or the circumstances of the complaint to anyone except where disclosure is:

- a) necessary to investigate the complaint or take corrective action
- b) required by law

The harassment prevention procedure in Park West is not intended to discourage or prevent complainants from exercising other legal rights under any other law. Park West and its administration are responsible for creating a safe work environment, free of harassment. All employees in Park West are responsible for stopping harassment. If you become aware of harassment in your work area, or elsewhere in the division, you must do everything you can to stop it, whether or not a complaint has been made.

Courts may impose penalties on employers and managers, even if they aren't actually involved in or aware of the harassment but should have known about it. Administrators



who ignore harassment may face legal consequences, and may be disciplined by Park West.

## **Procedure for Handling & Resolution of Complaints**

### **Early Problem Resolution**

The objective of early resolution is to resolve an alleged violation of a respectful workplace as soon as possible, in a fair and respectful manner without having to resort to the formal complaint process. Every effort will be made to resolve the issue early with open communication and in a cooperative manner. The use of problem resolution mechanisms such as coaching, counseling and facilitation can in many instances resolve the issue and prevent the situation from escalating to the point where filing a complaint is necessary.

A person who feels offended by the actions of another person in the Division is encouraged to make it known to that person as soon as possible in an attempt to resolve the issue. If the issue is not resolved at this point or if the offended person does not want to speak directly with the other person, the offended person will meet with his or her administrator in an attempt to find a solution and resolve the issue. An offended person may request that a mediator (either internal or external) be involved in an attempt to resolve the situation.

In the event that the Administrator/Supervisor is unable to resolve the issue or the Administrator/Supervisor determines the issue warrants the attention of the Principal, then the School's Principal will be notified. The School Principal must make every effort to resolve the issue between the parties as quickly as possible.

If an informal resolution is reached it will be documented and implemented, however any documentation will be maintained.

### **Complaint Process**

Any person who believes that they are being harassed (within the definitions as just outlined) should act promptly in order to resolve the situation; allowing the Division to work in a proactive and timely manner to prevent further harassment. Employees may choose the informal procedure to reach a mutually acceptable agreement respecting future conduct and interaction. However, if the complainant is not able to communicate with the alleged harasser, the complainant may choose to proceed directly to the formal procedure.

**Informal Procedure:** A staff member who believes that they are being harassed may choose to resolve the issue by communicating (verbally or in writing) directly with the person who is believed to be the alleged harasser (i.e., the respondent).



Formal Procedure: If early resolution is not successful or is not deemed appropriate, the complainant may file a formal harassment complaint. The complainant shall file a complaint (verbally or in writing) with the Principal, Supervisor or designate and Superintendent (if the Supervisor is the alleged initiator of the harassment). The complainant may also speak directly to their Workplace Safety and Health Representative and/or their Union Representative in accordance with their respective Collective Agreement.

### **Corrective Action for Harassers**

Employees who harass another person will be subject to one or more of the following forms of discipline, depending on the severity of the harassment:

- A written reprimand
- A requirement to attend sensitivity training
- A transfer if it is not reasonable for the people involved to continue working together
- A demotion
- Dismissal

If the investigation does not find evidence to support the complaint, there will be no documentation about it in the file of the alleged harasser. When the investigation reveals harassment occurred, the incident and the corrective action will be recorded in the harasser's personnel file.

### **Confidentiality**

Park West School Division will not disclose a complainant's or alleged harasser's name or any circumstances about a complaint, to anyone except where necessary to investigate the complaint; take disciplinary action; or where required by law.

Administrators involved in a complaint are reminded to keep all information confidential, except in the above circumstances.

### **Retaliation**

Anyone who retaliates in any way against a person who has complained of harassment, given evidence in a harassment investigation, or been found guilty of harassment, will be considered to have committed harassment and be penalized accordingly. The possible penalties are the same as those previously noted.

### **Education**

Park West School Division is committed to keeping of all its employees and administrators aware of this procedure and harassment in general.

### **Monitoring**

Park West School Division will monitor this procedure and make adjustments where necessary.