



Policy Statement: It is the policy of The Hamilton-Wentworth District School Board to create and maintain an environment where every person who is an employee has the right to freedom from harassment as defined by the Ontario Human Rights Code.

RESPONSIBILITY: Director, Supervisory Officer specified

Rationale:

Our Commitment as a Board, pursuant to the Ontario Human Rights Code is:

- to promote a working environment of respect that is free from any form of discrimination and harassment as defined by the Ontario Human Rights Code, through education and prevention;
- to alert all employees of the Board to the fact that discrimination and harassment in the workplace are against the law; and
- to establish a mechanism for receiving complaints of harassment and to provide procedures by which the Board will deal with and resolve such complaints.

OPERATING PROCEDURES:

1.0 Application

1.1 This policy applies to all employees of the Board.

2.0 Definition

2.1 Harassment is unwelcome and offensive conduct or comment that is known or ought reasonably to be known to be unwelcome. It may be related to sex, race, colour, ethnic or place of origin, ancestry, citizenship, disability, age, religion or creed, record of offences, sexual orientation, or marital, or family status. Harassment on these grounds is a form of discrimination and is expressly prohibited under the Ontario Human Rights Code.

2.2 Harassment related to the grounds in paragraph 2.1 may occur when the behaviour or conduct in question:

- would reasonably tend to cause offence, discomfort, humiliation, or embarrassment to another person or group;
 - would reasonably tend to be perceived as placing, either implicitly or explicitly, a condition on employment and its terms; or
 - has the purpose or effect of interfering with a person's work performance or creating an intimidating, threatening, hostile or offensive work environment.

- 2.3 Sexual harassment is a particular form of harassment involving unwelcome sexually-oriented behaviour based on gender or sexual orientation. It includes behaviour by men towards women, between men, between women, or by women towards men. Harassment, that is sexual in nature, may occur on its own or be combined with other forms of harassment, such as harassment based on race or disability.

2.4 What is Not Harassment

Harassment does not include the normal exercise of supervisory responsibilities, including direction, counselling, and discipline when necessary.

3.0 No Retaliation

- 3.1 The Board will not tolerate any retaliation against anyone pursuing in good faith the objectives or acting in accordance with this policy. Any such retaliation will be treated as a disciplinary issue and thus subject to the Progressive Discipline Policy.

4.0 Malicious or Bad Faith Complaints:

- 4.1 Employees must be aware that their complaints may lead to legal action against them by any of the people involved, if their complaints are defamatory or have been made with malicious intent or in bad faith.
- 4.2 Employees who file malicious or bad faith complaints may also be subject to disciplinary action, depending on circumstances.

5.0 Violation of Policy

- 5.1 Employees who believe they are being harassed are encouraged (not required) to advise person(s) concerned that the behaviour is unwelcome and offensive, and should stop.
- 5.2 While the Board recognizes that it will often be difficult to come forward with a complaint of harassment, it encourages those who feel they have been or are being harassed to report the matter, regardless of who the alleged harasser may be. Employees should contact their immediate supervisor to discuss the matter. In the event the alleged harasser is the employee's immediate supervisor, the employee should contact his/her supervisory officer. Where the employee's immediate supervisor is named in the complaint, or other circumstances would prevent an objective, timely response, the supervisory officer may designate a third party to investigate the matter.

6.0 Confidentiality

- 6.1 Confidentiality is beneficial to everyone involved in the complaint process. It allows the parties to resolve disputes without outside pressures. It protects the parties against unsubstantiated claims that might result in harmful gossip. Confidentiality allows the administrators of the policy time to assist in dispute resolution without being compelled to respond to extraneous issues.

The School Board recognizes that it is difficult to come forward with a complaint of harassment or discrimination. To protect the interests of all parties involved, confidentiality will be maintained throughout the complaint process to the extent possible under the circumstances, except as required by law.

Confidentiality does not mean anonymity. A fundamental principle of a formal complaint is that the respondent must be informed of a complaint and who has made the allegations as early as possible in the process.

A complainant has the right to withdraw a complaint at any stage defined in these procedures. At the same time, the School Board may be required to continue to act on the issues identified in the complaint in order to comply with its legal obligations and to address its concerns regarding systematic harassment and discrimination issues.

When the Board determines that the safety of an individual or the community is at risk, it will act to the best of its ability to address this situation. This may mean that the procedures outlined in this policy, including confidentiality, will be set aside.

All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material will be kept normally confidential by the Board, except where disclosure is required by law.

7.0 Responsibility

7.1 Responsibilities of all Employees of the Board:

Everyone is expected to promote a working environment that is free from harassment and to assist anyone who believes he/she is being or may have been harassed. Anyone who believes a colleague or other person employed by the Board is being or may have been harassed is encouraged to notify his/her supervisor.

7.2 Responsibilities of Persons in Supervisory Positions:

Those in supervisory positions at the Board, including principals, vice-principals, site supervisors, managers, and supervisory officers, have a particular responsibility to understand and actively support this policy by:

- not demonstrating, allowing or condoning behaviour contrary to this policy when they know, or reasonably ought to know, that such behaviour is occurring;
- investigating harassment complaints;
- taking action (including disciplinary action if necessary), even in the absence of a complaint, when they know, or reasonably ought to know, that harassment has occurred or is occurring;
- forwarding within 30 working days of the signed complaint, investigative reports to the appropriate supervisory officer. It is the responsibility of the supervisory officer to receive and review the investigative report. The claimant and the respondent will receive copies of the complaint and the respondent's reaction, and resolution agreement where applicable. Once the investigation has been completed the claimant and the respondent will have access to the investigative report. Where a claimant has reported and then withdrawn the complaint, any investigative report will be shared only with the respondent. These investigative reports will be kept confidentially in Human Resources separate from the personnel file.

8.0 Rehabilitative and/or Disciplinary Action

8.1 As a result of the investigation, the supervisor may take rehabilitative and/or disciplinary action appropriate to the degree of harassment. Such rehabilitative or disciplinary action may include, but are not limited to:

- Mediation
- Counselling
- Education on harassment
- Formal written apology
- Change of work assignment of the complainant and/or the respondent
- Disciplinary action as prescribed by the Hamilton-Wentworth District School Board Progressive Discipline Policy

Assistance is also available from the Ontario Human Rights Commission or persons can pursue any other legal avenue, even when steps are taken under this policy. This may include using the Collective Agreement, the Criminal Code of Canada or civil proceedings.

LEGISLATION:

**Ontario Human Rights Code
Criminal Code of Canada
Canadian Charter of Rights and Freedoms**

HARASSMENT COMPLAINT

Form "A"

Complainant	Worksite
_____	_____
Position	

Respondent	Worksite
_____	_____
Position	

Supervisor's Signature	Date Received
_____	_____

Occurrence(s): (What, Where, When, Witnesses)

Incident	Prohibited Grounds	Incident Date(s)	Incident Location	Witness(es)

Additional description of events and impact of alleged harassment:

Actions that complainant indicates have already been taken, and subsequent results: (i.e., informal discussion with respondent)

I acknowledge having read the Harassment Policy and verify the information described above.

Complainant's Signature

Date

Must be forwarded to the appropriate Superintendent, (filed in Human Resources). Please do not retain copies.