



**Respectful Working and Learning Environments:
Conflict Prevention & Resolution**

POLICY DIRECTIVE & PROCEDURES

Responsibility: Executive Officer, Human Resources

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1.0 POLICY DIRECTIVE

The Hamilton-Wentworth District School Board (the “Board”) is committed to providing a working and learning environment free from objectionable behaviour where all individuals are treated with respect and dignity as outlined in Appendix A. The Board holds high expectations for the conduct of its employees, its students and any others associated with the school community.

Where allegations relate to harassment or discrimination on the basis of a ground prohibited by the Ontario Human Rights Code, they shall be addressed using the Board’s Harassment (Staff) Policy.

This Policy is intended to provide a greater awareness of the value of establishing and maintaining respectful working and learning environments and of responsiveness to the damaging effects of objectionable behaviour. Procedures have been developed to ensure that disputes attributed to objectionable behaviour are dealt with expeditiously. In most cases, these disputes will be resolved using the informal mechanisms herein.

1.1 Guiding Principles:

- a. All members of the school community shall:
 - i. Treat one another with dignity, respect and civility, sensitivity and courtesy, especially when there is disagreement;
 - ii. Respect differences in people, their ideas, opinions and rights;
 - iii. Show proper care and regard for Board property and for the property of others,
 - iv. Demonstrate honesty and integrity;
 - v. Use non-violent means to resolve conflict.
- b. Conflicts will be resolved quickly and fairly.
- c. This policy is aligned with other Board Policies/Directives, Legislation, and Collective Agreements. -

1.2 Definition of Objectionable Behaviour

Objectionable behaviour is a course of conduct or communication in any form of attitudes, beliefs or actions directed at a specific individual which is known or ought reasonably be known to be unwelcome, serves no legitimate work and/or academic purpose and renders the working or learning environment intolerable for that individual. Objectionable behaviour occurs when an individual is singled out for serious mistreatment, which may include threats, intimidation, bullying, isolation, harassment, verbal assault, taunting, ostracizing, violent gestures, slander or libel. Such behaviour will not be tolerated at any board location or at any time during which one is fulfilling his/her working or learning responsibilities.

Objectionable behaviour is not the normal exercise of supervisory and/or academic responsibilities, including training, direction, instruction, performance appraisal, counseling and discipline.

1.3 Definition of Working and Learning Environment

The working and learning environment is any place where employees, students, their parents/guardians, volunteers, trustees, visitors, contractors as well as any other third party engaged in any school-related activities or in the performance of any work or work-related duties or 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 ambit of this policy directive.

1.4 To Whom Does This Policy Directive Apply?

The policy directive on Respectful Working and Learning Environment: Conflict Prevention and Resolution applies to all Board employees, trustees, students, teacher candidates, and others such as members of consultative committees, clients of the Board, parents/guardians, volunteers, permit holders, contractors, visitors and employees of other organizations not related to the Board but who nevertheless work on Board related activities or are invited onto Board premises.

1.5 Duties and Responsibilities

The Board shall ensure all employees and contractors receive a copy of this policy directive and ensure that it will receive profile at new employee orientations and at parent meetings.

Supervisory and managerial personnel, including school administrators and field supervisors, must ensure all individuals within their setting clearly understand expectations and standards for individual behaviour. This includes an understanding of the prevention of and the response to objectionable behaviour, both informal and formal methods of problem solving and conflict resolution.

1.6 Who May Initiate a Complaint?

All those individuals who are included under the section *To Whom Does this Policy Apply?* have access to the complaint procedures. Individuals who believe that they have been subjected to objectionable behaviour may report the objectionable behaviour. Group complaints are not permitted (i.e. individuals must submit separate complaints). In addition, those who have witnessed objectionable behaviour directly, or have reasonable grounds to suspect that objectionable behaviour is occurring, may initiate a report to a principal or supervisor. Anonymous reports will not be accepted for dispute resolution under these procedures.

1.7 Supervisory and Managerial Responsibilities

Supervisory and managerial personnel may become aware of objectionable behaviour in the working or learning environment in different ways. They may observe objectionable behaviour directly, receive reports from third parties or receive a report from the individual affected. The policy directive and procedures on Respectful Working and Learning Environment: Conflict Resolution and Prevention encourages all those who are covered by the policy directive report immediately alleged occurrences of objectionable behaviour.

Supervisory and managerial personnel are responsible for being knowledgeable of this policy directive, assisting those with process questions and, where applicable, conduct investigations in accordance with the policy directive or participate and support resolution strategies.

Supervisory and managerial personnel who are contacted shall follow the procedures set out here-in.

Supervisory and managerial personnel are to advise the Executive Officer, Human Resources of all formal complaints filed to undergo a threshold assessment, and to forward to the attention of the Executive Officer, Human Resources all incident notes and agreements per the Informal Resolution Process.

1.8 Reporting Complaints

All those who are covered by this policy directive have a right to report objectionable behaviour and are entitled to have access to the dispute resolution processes. The first step is to inform the individual that his/her behaviour is unwelcome and must stop immediately*.

Every attempt shall be made to resolve conflicts through an informal resolution process (refer to 3.1, Informal Resolution). Informal Resolution is a mandatory procedure that provides an opportunity for parties to resolve a dispute in a mutually respectful manner. Many disputes can be resolved quickly and effectively using this approach. The Board encourages supervisors, as well as union/federation representatives, to resort to Informal Resolution as a means of resolving issues. This can prevent escalation of the situation and further negative consequences while promoting the restoration of a healthy working and learning environment.

Complaints not resolved through Informal Resolution and that meet the definition of Objectionable Behaviour may proceed to the Formal Process.

In order to stop conflicts/objectionable behaviour, supervisory and managerial personnel must address and attempt to resolve disputes in a timely fashion.

In instances where one is fearful of his/her personal safety, such situations should be reported to the school principal/supervisor and the police.

* Where applicable, individuals may also need to comply with reporting procedures per their professional standards/codes.

1.9 Assistance for Complainants, Respondents and Witnesses

Prior to initiating any complaint and throughout the complaint process, complainants have a right to assistance and support. Individuals who are named as respondents in a complaint, as well as witnesses, also have a right to assistance and support throughout the complaint process. The following people may provide support:

- Parent/guardian/other caregiver
- Professional support staff
- Employee or colleague
- Principal/VP/supervisor
- Trained resource person
- Union/federation/association representative
- Translator/interpreter (if necessary)

2.0 PROCEDURES

General

In accordance with the policy directive, these procedures provide a mechanism for dealing with complaints of objectionable behaviour occurring in the working and learning environment. Nothing in these procedures denies or limits access to other avenues of redress available under the law (e.g. or Safe Schools legislation and Professional Codes of Conduct) through the filing of a grievance or through progressive discipline. In the event other avenues are pursued, this process shall be reviewed by the Executive Officer, Human Resources, to determine whether a formal investigation will proceed or whether the complaint should proceed under another process. Multiple processes may or may not be permitted to proceed concurrently, although informal dispute resolution attempts shall be permitted at any time with the agreement of the Board and the parties.

Students should contact their vice-principal, principal, or, where appropriate, their school superintendent, for clarification on the process to be followed.

2.1 Timelines for Initiating a Complaint

All reports should be filed as quickly as possible, but no later than within thirty (30) calendar days of the most recent instance of alleged objectionable behaviour. Formal Complaints filed outside this time frame may be considered by consulting the Executive Officer, Human Resources.

2.2 Confidentiality

Confidentiality is beneficial to everyone involved in the complaint process. To protect the interests of all parties involved, confidentiality is maintained throughout the complaint process to the extent possible, under the circumstance, subject to all relevant legal considerations.

It is the duty of all persons to maintain confidentiality in the complaint process. All complainants, respondents and other persons involved with the complaint processes under these procedures should ensure that all matters remain confidential. Witnesses should be informed that supervisory and managerial personnel, in obtaining a statement, will maintain such statement in confidence, subject to their ability to conduct a full and thorough investigation.

Confidentiality does not mean anonymity. Procedural fairness requires that the respondent to a complaint, as early as possible, be apprised of the nature of the complaint process and by whom it has been made so that they have an opportunity to respond to the allegations. This may require the disclosure of witness names and statements to the parties.

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 systemic 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.

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.

Where there exists a clear, serious and immediate threat to the safety of an individual or the community, the Board staff should warn the individual and report the issue to the police.

3.0 PROBLEM RESOLUTION

3.1 Informal Resolution (Mandatory for all conflicts)

- a) Individuals often have different viewpoints which may lead to conflict. In most cases this conflict can be resolved informally. If you have a conflict with another individual, often the most effective resolution method is to approach the individual and discuss the matter privately. Clearly describe to the individual the behaviour which is causing the conflict and ask that the behaviour cease and obtain a commitment that the behaviour will stop. Each party must engage in active listening to

resolve any issues. In most cases, this will resolve the conflict if each party is able to articulate the position of the other. In situations where an individual may feel unsafe or uncomfortable in meeting privately they should discuss alternatives with a principal/supervisor.

- b) There are some instances in which the two parties involved have been unable to resolve an issue. In this instance, one or both parties may ask an immediate supervisor to help resolve the outstanding issue. If the immediate supervisor is involved in the issue, the request may be made of a supervisor one level up. The supervisor may, either personally or through a third party, use a variety of alternative dispute resolution techniques to resolve the issue. The goal is to identify practical solutions which will allow the parties to continue to co-exist in a positive and productive atmosphere. The parties may agree upon a confirmed resolution in writing signed by both parties involved. Written copies of this agreement will be kept in confidential 'Objectionable Behaviour' files in Human Resources under the direction of the Executive Officer, Human Resources. The majority of issues should be resolved at this level.

3.2 Informal Resolution Follow Up

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 behaviour (or conflict) has stopped.

Where disputes are resolved informally, there will be no formal reports made about the dispute and nothing shall be recorded in any employee's personnel file. Every effort will be made to protect the privacy of individuals.

3.3 Formal Complaint Procedures (For conduct that meets definition of Objectionable Behaviour)

3.4 Initiating a Formal Complaint

All formal complaints must be in written form and submitted with signature. Appendix B is provided to guide this process and must be completed to initiate the formal complaint process. If the supervisor is the party alleged to be responsible for the objectionable behaviour or alleged to condone the objectionable behaviour, the complaint should be reported to the next supervisory level above the supervisor. The Executive Officer of Human Resources shall have the discretion to refer a formal complaint to the parties to resolve the dispute informally.

Other complainants should report the complaint to the appropriate Principal/supervisory and managerial personnel at the Board. If it is not clear who this would be the complainant should consult with the Executive Officer, Human Resources for assistance.

3.5 Respondents to a Complaint

Individuals who are named as respondents in a complaint have a right to know in a timely manner that they are the subject of a complaint, who the complainant is, what the allegations are and what approach to a resolution is being considered. In particular, a respondent has a right to know the specifics of an allegation, including times, dates and alleged conduct. Respondents will be given a copy of the complaint and given time to prepare a full and complete response to the allegations.

3.6 Threshold Assessment

All formal reports filed under this policy directive shall be subject to an immediate threshold assessment by the supervisor and Executive Officer, Human Resources to determine whether the alleged conduct would, if proven, meet the definition of objectionable behaviour.

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

- would not, if true, meet the definition of objectionable behaviour; or
- does not provide sufficient details of the alleged objectionable behaviour, provided the complainant is given notice that insufficient details have been provided and given reasonable time to provide sufficient details; or,
- is vexatious, frivolous, has not been made in good faith or would, if investigated, constitute an abuse of the policy directive;

the complainant and respondent shall be so advised in writing by the Executive Officer, Human Resources and no further action shall be taken under this policy directive under the Formal Complaint Procedures. The parties may be referred to resolve the matter using the Informal Resolution process.

Where allegations relate to harassment or discrimination on the basis of a ground prohibited by the Ontario Human Rights Code, they shall be addressed using the Board's Harassment Policy.

3.7 Procedures for Resolving a Formal Complaint

In all cases, where the Executive Officer, Human Resources has determined that the parties have made reasonable efforts to resolve the dispute informally, and has conducted a threshold assessment to determine that a formal complaint should proceed, the Executive Officer, Human Resources shall direct the appropriate supervisory and managerial personnel to take action to resolve the formal complaint under this policy.

3.8 Formal Investigation and Resolution

Formal complaints require an investigation of the complainant's allegations. Investigators will most often be the supervisory staff of the complainant and/or respondent unless such person(s) actively participated in the unsuccessful informal resolution process, in which case, an independent investigator may be appointed. Where the complainant and the respondent have different reporting structures, supervisory and managerial personnel involved will determine who the appropriate person is to take responsibility for the investigation.

In a Formal Investigation, supervisory or managerial personnel who conduct the investigation shall ensure that the following steps are taken as soon as possible:

1. take appropriate measures, if necessary, pending the completion of the investigation;
2. notify the complainant(s), the respondent(s) and witness(es) that they are entitled to support and assistance throughout the process;
3. ensure that the respondent(s) is/are informed of the allegations, have a copy of the complaint and are provided an opportunity for a written response;
4. interview the complainant(s) and/or the third party reporting the complaint; respondents(s) and witness(es);
5. come to conclusions about whether a specific incident did or did not occur;-

6. provide a written summary of the findings and conclusions to the complainant and to the respondent and give them an opportunity to respond to same; and
7. take appropriate action(s) to resolve the situation.

If the respondent declines to participate in the formal investigative process, the investigation shall proceed. The respondent should be encouraged to participate in the interest of a balanced and fair process.

3.9 Standard of Proof

The standard of proof to be applied is the balance of probabilities.

3.10 Outcomes in Formal Investigations

In the event a complaint is not substantiated, no further action will be taken, subject to the section on maintaining records. In cases where the complaint is found to be vexatious, frivolous, made in bad faith or would, if investigated, constitute an abuse of the policy directive, the complainant may be subject to disciplinary action as outlined in Section 3.11. However, if there is a need to restore a positive learning or working environment or if the complainant and/or respondent require counselling, appropriate steps shall be taken to meet such needs.

Follow-up possibilities:

- counselling for the parties;
- application of strategies to restore a positive learning/working environment;
- mediation;
- specific training for the complainant or respondent;
- workshops for the staff and/or others) in the school/workplace regarding their rights and responsibilities (see Appendix A);
- permanent separation of respondent and complainant from each other;
- letter of direction;
- contract negated;
- access restrictions;
- restorative measures.

3.11 Disciplinary Actions

Employee Respondents

The appropriate supervisor or manager may impose discipline as appropriate and consistent with the circumstances.

The principles of progressive discipline will be applied in dealing with disciplinary actions under this policy. These would include the following possibilities:

- verbal warning;
- written reprimand;
- suspension without pay;
- dismissal from employment with the Board.

Other Respondents

Actions must be determined as appropriate for the individual situation and may include such responses as a letter of disapproval and warning, a revoking of permits or contracts, an issuing of a trespass warning, or other remedies as provided by the common law and/or the appropriate legislation. The involvement of the appropriate Superintendent is required in these cases.

3.12 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.

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 monitor that the terms the parties have agreed to have been met.

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

4.0 Review (Appeal) Process

Within two (2) calendar weeks of having received the investigator's final written report, the complainant or respondent may request, in writing, to the Executive Officer, Human Resources, for a review of the Investigator's conclusions and/or report for one or both of the following reasons:

1. the investigator did not comply with the policy directive and procedures; or
2. new evidence has arisen that was not known to the parties or the Investigator prior to the writing of the report.

No review of the final decision will be undertaken with regard to the claim that the conclusions drawn by the investigator(s) based on findings of fact were incorrect.

The Executive Officer, Human Resources shall direct a Supervisory Officer to undertake the review and the Supervisory Officer shall report the results of the review, in writing, to the Executive Officer, Human Resources. The Supervisory Officer shall make every effort to complete this review and render his/her report within three (3) calendar weeks.

The Executive Officer, Human Resources may affirm or amend the final report, or require that a new investigation be undertaken.

5.0 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 be stored in a locked and secure file in the Human Resources Department. Records will be retained per legislated requirements.

6.0 Misuse of the Complaint Procedures

At any time the process may be discontinued if there is a determination that a complaint has been filed in bad faith, is vexatious, frivolous or found to constitute an abuse of the policy directive. The Executive Officer, Human Resources, with the appropriate Superintendent, may impose discipline on the complainant as appropriate in the circumstances, up to and including, termination of employment or contract of service. Individuals 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. Students who file malicious or bad faith complaints may also be subject to disciplinary action, depending on the circumstances.

7.0 Reprisals

The Board will take appropriate action against any student, parent, teacher, administrator or other Board personnel who retaliates against any person who reports an incident or any person who testifies, assists or participates in a proceeding, investigation or hearing relating to such misconduct. Retaliation includes but is not limited to any form of intimidation, reprisal or harassment. Alleged reprisals shall be investigated under this policy directive and, where proven, may result in discipline as appropriate in the circumstances, up to and including termination of employment or contract of service.

8.0 Executive Officer, Human Resources

In the event the Executive Officer, Human Resources is a direct party to a complaint (complainant or respondent), the Director of Education shall assign a designate to fulfill the role of the Executive Officer, Human Resources within the policy directive.

9.0 Alignment to Other Board Policies/Directives and Legislation

Education Act
Criminal Code of Canada
Code of Conduct (Interim Policy and Policy Directive)
Equity Policy
Harassment (Staff) Policy
Progressive Discipline Procedures (Employees)
Collective Agreements
Ontario Human Rights Code
Occupational Health & Safety Act

Appendix A

RIGHTS AND RESPONSIBILITIES

Hamilton-Wentworth District School Board strives to maintain a working and learning environment that is free from unwelcome or intimidating behaviour that could create an unsafe and /or unhealthy environment and could interfere with job performance and the ability to learn.

Responsibilities of All Persons in Board Working/Learning Environments

It is the responsibility of every person to create and contribute to a climate of understanding and mutual respect for the rights and dignity of each individual by:

- showing courtesy and self discipline in actions and words;
- seeking informal problem solving of issues;
- respecting rules, regulations and practices that are in place which provide for safe and secure learning and working environments;
- demonstrating honesty, integrity and behaviours that are representative of a positive and supportive atmosphere;
- showing proper care and regard for Board property and for the property of others.

Responsibilities of the Board

- It is the responsibility of the Hamilton-Wentworth District School Board to recognize the dignity and worth of every person and to provide for fairness and equal opportunities without discrimination.
- It is a commitment of the Hamilton-Wentworth District School Board to work towards the elimination of objectionable behaviour in our schools and workplaces.
- It is the duty of the Hamilton-Wentworth District School Board to maintain an environment that is safe, nurturing and positive for all persons served by it.

By knowing your rights and responsibilities, you can stop objectionable behaviour. Anyone who feels that they are being subjected to objectionable behaviour has the right and responsibility to tell the individual concerned that the behaviour is offensive, unwelcome, and must cease. They also have the right to report the objectionable behaviour to someone in a position of authority who can facilitate resolution of the matter.

If you are experiencing objectionable behaviour, contact your Principal, Manager/Supervisor or Supervisory Officer.