

HUMAN RIGHTS COMPLAINTS RESOLUTION PROCEDURE

RATIONALE:

Hamilton-Wentworth District School Board (HWDSB), the Board, is committed to providing learning and working environments that are welcoming, respectful, accessible, and free from discrimination and harassment.

This procedure sets out the internal mechanism and process involved in reporting, investigating and resolving human rights complaints and concerns. This procedure is guided by the Ontario Human Rights Code (Code) and the Board's [Human Rights Policy](#) and is intended to be used in conjunction with the *Human Rights Accountability Procedure*.

The Human Rights Policy and this procedure in no way affect the right of any person to exercise their rights under the Code and/or access the Human Rights Tribunal of Ontario (HTRO) processes.

TERMINOLOGY:

Adverse Impact: Having a harmful or negative result. Sometimes treating everyone the same (a practice that appears neutral) may have a negative effect on some people.

Allegation: A claim or assertion that someone has done something wrong, based on one's belief that a violation of the Board's Human Rights Policy and/or the Code has occurred. By definition, an allegation is not yet proven to be true.

Balance of Probabilities: The standard of proof that is satisfied where something is more likely than not to have happened. When an allegation is proven on a balance of probabilities, it means that it is more probable than any other proposition, based on all the evidence.

Anonymous Complaint: Where a complaint is received, but the Board is unaware of the identity of the complainant.

Code: The Ontario Human Rights [Code](#)

Code-protected Grounds/Protected Grounds/Code Grounds: These are the human rights grounds upon which discrimination under the Code is prohibited by law:

- Age
- Ancestry
- Citizenship
- Colour
- Creed (includes religion)
- Disability (including mental, physical, developmental or learning disabilities)
- Ethnic Origin

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- Family status (such as a parent-child relationship, elder relationships)
- Gender Identity and Gender Expression
- Marital Status (including the status of being married, single widowed, divorced, separated or living in a conjugal relationship outside of marriage, whether in a same sex or opposite sex relationship)
- Place of origin (may include language)
- Race
- Sex (including pregnancy and breastfeeding)
- Sexual Orientation
- Record of offences (criminal conviction for a provincial offence, or for an offence for which a pardon has been received) (applies to employment only)
- Association or relationship with a person identified by one of the protected grounds
- Perception that one of the above grounds applies
- Socio-economic status (not a protected ground under the Code, but protected under the HWDSB Human Rights Policy)

Concern/ Complaint: A concern is a matter brought forward when a person is exploring a situation and/or their options. A concern may or may not become a complaint. A complaint is an allegation that the Board's Human Rights Policy and/or Human Rights Code has been violated. Both concerns and complaints are taken seriously.

Complainant: A member of the HWDSB community who brings forward a concern and/or makes a complaint under the Human Rights Policy.

Culturally Responsive Services: Providing services in ways that respect and take into consideration the relevance of the beliefs, backgrounds, practices, cultural, linguistic and other needs of the diverse communities in HWDSB environment, especially those that have historically and currently experienced discrimination. Culturally responsive services intentionally consider diverse cultural approaches, strengths, perspectives and experiences of the communities that are being served to make the service more welcoming, accessible, appropriate, relevant and fair.

Discrimination: Unequal treatment based on protected grounds, which imposes extra burdens or denies benefits or has other negative consequences. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that have adverse impact, i.e., appear neutral but have the effect of disadvantaging certain groups of people. It can be direct or indirect, individual or systemic. It may be intentional or unintentional, and it may take obvious forms (direct), or occur in very subtle ways (indirect). In any case, even if there are many factors affecting a decision or action, if discrimination is one factor, that is a violation of the Board's Human Rights Policy and/or the Code. Hate activities and harassment are forms of discrimination. Implementing measures to correct, relieve or remedy hardship or systemic discrimination experienced by persons or groups in an attempt to achieve equity, is not discrimination.

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Harassment: Engaging in a course of vexatious comment or conduct that is known, or ought reasonably to be known, to be unwelcome. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning, or unwelcome. Most often, harassment involves more than one event, however, one incident could be significant or egregious enough to constitute harassment. Some examples of harassment are name-calling, unwelcome remarks, jokes, slurs, displaying derogatory or offensive messages and bullying. This procedure covers harassment on protected grounds. Other types of harassment are addressed through other policies, such as the *Workplace Harassment and Prevention Policy*.

Reasonable exercises of management function are not harassment. Management is entitled to enforce policies and procedures, implement measures to correct performance, and request medical documents in support of an absence from work. Differences of opinion or minor disagreements are not generally considered harassment. Not every unpleasant or uncomfortable interaction rises to the level of harassment.

HWDSB Community: Students, employees, parents, guardians, caregivers, trustees, community advisory committee members, school council members, permit holders, vendors, service providers, contractors, volunteers, visitors, all other persons who are invited to, access or provide services, or attend Board and school events and any person or entity who enters into an agreement, or uses school board property.

HWDSB Environment: Board property, schools, school buses, virtual or digital learning and working environments, social media, school or work-related events or activities, before- and after-school programs, extracurricular activities, co-instructional activities and excursions and may include any other locations outside HWDSB that may have an impact on the school or work climate.

Human Rights Office (HRO): HWDSB's arm's length office that is mandated to promote and protect the human rights of all HWDSB community members. The office a) provides strategic advice within HWDSB to support all HWDSB community members in understanding their rights and responsibilities and b) manages the HWDSB's human rights complaints resolution process.

Poisoned Environment: A negative, hostile, or unpleasant learning or work environment created due to comments or conducts or activities that harass or discriminate against a person or a group. It might not be directed at a specific individual. A poisoned environment may result from a series of incidents or a single serious incident. Allowing inappropriate behavior to continue and failing to adequately remedy and restore the environment following the incident(s) may result in poisoned environment.

Reprisal: an action or threat that is intended as retaliation or punishment for claiming or enforcing a right under the Code and under the HWDSB Human Rights Policy.

Respondent: A person or entity against whom a complaint has been made.

Social Area: The Ontario Human Rights Code prohibits discrimination against people on the basis of protected grounds in five social areas: accommodation in housing, contracts, employment, goods, services and facilities and membership in unions, trade or professional associations.

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Support Person: A person identified by a complainant or respondent to provide support during the Early Resolution or Formal Resolution process under this procedure. A support person may provide support in navigating and accessing the complaints process, explaining the issues in dispute, providing emotional support and providing accommodation related supports (e.g., translation, accommodation supports based on disability and others). A support person must maintain confidentiality and cannot be someone who may be involved with the complaint as a witness.

Supervisor/Manager: HWDSB employees with supervisory responsibilities, including vice-principals, principals, superintendents, and managers.

Witness: A person who may have information about a matter that the HWDSB is investigating under the Human Rights Policy and this procedure.

For more terminologies, refer to [Human Rights Policy](#).

PROCEDURES:

This procedure applies to all members of the HWDSB community in all HWDSB environments. It applies to incidents, processes and practices that may be in violation of the Board's Human Rights Policy and/or the Ontario Human Rights Code.

Concerns and complaints that do not make a connection to a Code protected ground are not covered under this procedure and may be raised and addressed under other Board policies (e.g., *Workplace Harassment Prevention Policy*, *Bullying Prevention and Intervention Policy*). In case of an overlap, conflict or inconsistency between this procedure and other Board policies, collective agreements and/or legislation, the Board's obligations under the Ontario Human Rights Code prevail.

All HWDSB community members may report concerns and/or make complaints under the Human Rights Policy and this procedure and have obligations to participate in the resolution process in good faith. Under this procedure:

- i. Human rights concerns can be addressed and resolved at all levels within the Board, including at the school and department levels.
- ii. The Human Rights Office (HRO) is a resource available to all HWDSB community members, however, it is first advisable to attempt to resolve issues through a site-based (schools and departments) resolution supported by a principal, superintendent, supervisor or manager.
- iii. This procedure applies to individuals pursuing or responding to concerns or complaints of individual/personal behaviors, as well as systemic issues based on decisions, policies, procedures and other business practices of the HWDSB.
- iv. The processes in this procedure are intended to be remedial, not punitive. These processes focus on seeking to understand concerns and adverse impacts, determine what is required

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of the parties to address the harm caused, and recommend remedial actions to prevent re-occurrence, to repair harm and restore relationships.

1.0 Reporting a concern/making a complaint

1.1 Employees

1.1.1 Employees should report alleged harassment or discrimination incidents/ complaints/ concerns based on a protected ground to an immediate supervisor/manager. If the complaint involves the supervisor, the employee should send the complaint to the authority that oversees the supervisor, the Human Rights Office or Human Resource Services Labour Relations department directly ([Appendix B](#)). The employee should describe the incidents and the reasons why the employee believes that the incident constitutes discrimination or harassment on a protected ground.

1.1.2 Employees may complete reports verbally or in writing; however, written reports are preferable to ensure proper documentation.

1.1.2.1 Reports to the HRO may be submitted through [Human Rights Complaints Form](#) ([Appendix D](#)) or by emailing the HRO at humanrights@hwdsb.on.ca ([Appendix B and C](#))

1.1.2.2 Reports to the Human Resource Services- Labour Relations Department may be submitted through the Workplace Harassment Compliant Form.

1.1.3 Upon receiving a report regarding allegations of harassment or discrimination incident/complaint/concern, supervisors/managers must review the report and determine whether the report discloses harassment or discrimination on a protected ground. If upon the supervisor's or manager's first review of the report/complaint/concern/incident (acting in its reasonable discretion), it is clear that there is no relation to a protected ground, this Human Rights Complaints Resolution Procedure will not apply and the parties will be either:

1.1.3.1 Be directed to deal with the matter in an informal manner using other resources and assistance as appropriate in the circumstances, or

1.1.3.2 For other types of harassment that are not related to a protected ground, directed to address the matter through other policies as applicable, for example, *Workplace Harassment and Prevention Policy*. The supervisor or manager may consult the HRO for assistance in making this determination.

1.1.4 If the manager or supervisor determines that the report discloses harassment or discrimination based on a protected ground, the issue may be addressed through an Early Resolution process and/or Formal Resolution process. Supervisors/

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managers must document and report the process, outcomes and may consult with the HRO, Human Resource Services and/or supervisory officers.

- 1.1.5 Employees pursuing (complainants) or responding (respondents) to concerns or complaints are strongly encouraged to consult with, when applicable, their union/ federation/ association or other support persons. Where HWDSB is obligated to involve unions or associations, it will do so.
- 1.1.6 All employees are obligated to participate in, and cooperate fully, with information gathering or investigation processes.
- 1.1.7 If an employment-related internal complaint is filed through the Human Rights Office, and the same matter is active in the Labour Relations Department Grievance process, the complaint or investigation into the complaint **may** be placed in abeyance, if it appears that such abeyance will not jeopardize the integrity of the investigation and will not constitute a violation of any obligations on the HWDSB under law.
- 1.1.8 If an internal complaint filed through Human Resource Services or Human Rights Office and the same or similar complaint is actively filed with the Human Rights Tribunal of Ontario (HRTO) or other tribunals, the internal complaint typically will **not** be placed in abeyance.

1.2 Students

- 1.2.1 Students (or their parent/guardian/caregiver) should report alleged harassment or discrimination incidents/ complaints/ concerns based on a protected ground to the classroom educator, school principal and/or vice principal. If the complaints involve the school principal or vice principal, reports should be sent to the office of the superintendent of student achievement and/or the HRO directly. If students and their families/guardians feel that the issues they reported to the school are not addressed, they can also directly contact the office of the superintendent of student achievement and/or the HRO ([Appendix C](#)).
- 1.2.2 Reports may be completed verbally or in writing, however, written reports are preferable to ensure proper documentation. Reports to the HRO may be submitted through the HRO [Human Rights Complaints Form](#) ([Appendix D](#)) or by emailing the HRO at humanrights@hwdsb.on.ca ([Appendix A and C](#)).
- 1.2.3 Upon receiving a report regarding alleged harassment or discrimination incident/ complaint/ concern on a protected ground, the school principal or vice principal will immediately address the issue through an Early Resolution process and/or Formal Resolution process, applying appropriate policies and procedures. The school principal or vice principal will document and report the process and may

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consult with the superintendent of student achievement, the HRO and/or Human Resource Services.

- 1.2.4 Students and parent/guardians/caregivers who are pursuing (complainant) or responding (respondents) to concerns or complaints may consult or seek support from a support person(s).
- 1.2.5 School employees, especially those with a position of responsibility, have a duty to address incidents when they become aware of them and report them to the school principal following all applicable policies and procedures (e.g., Bullying and Prevention Policy, Code of Conduct, Equity and Inclusion, Student Behaviour and Discipline Policy).

1.3 Other members of the HWDSB Community

- 1.3.1 Other members of the HWDSB community (e.g., parents, guardians, permit holders, vendors, service providers, contractors, volunteers, visitors) can report alleged harassment or discrimination incidents/complaints/concerns on a protected ground to the school principal or other Board department managers within the service area where the concern or incident occurred.
- 1.3.2 They may also consult the HRO to determine the appropriate course of action. When complainants feel the issues are not addressed appropriately, they may also file a complaint to the HRO. Reports to the HRO may be submitted through the HRO [Human Rights Complaints Form](#) (Appendix C and D) or by emailing the HRO at humanrights@hwdsb.on.ca.

1.4 Reporting Incidents Involving Those in Senior Leadership Positions

- 1.4.1 Director of Education: Incidents/ complaints/ concerns involving the Director of Education should be reported to the Chair of the Board of Trustees.
- 1.4.2 Executive Council: Incidents/ complaints/ concerns involving a member of the Executive Council should be reported to the Director of Education.
- 1.4.3 Board of Trustees: Incidents/ complaints/ concerns involving a Trustee will be managed through the [Board of Trustee Code of Conduct](#).
- 1.4.4 The Human Rights Office: Incidents/ complaints/ concerns involving the HRO should be reported to the Director of Education.

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1.5 Respondents to a complaint

- 1.5.1 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, what the allegations are, and what approach to a resolution is being considered. In most cases, respondents are also entitled to know who the complainant is.
- 1.5.2 Respondents will be provided with a summary of the allegations in writing and given time (up to five (5) business days) to prepare a full and complete response to the allegations. Extensions may be granted where warranted. The respondent will be asked to meet with the person leading the resolution process to review the responses.
- 1.5.3 Under a few circumstances, the Board may decide to delay informing the respondent of the complaint for a reasonable period of time, pending further assessment. Such circumstances may include but are not limited to lack of clarity about the nature of the complaint or if the complaint appears to be unclear, unfounded, vexatious or made in bad faith.

1.6 Anonymous Complaints

- 1.6.1 Anonymous complaints against an individual or group or the Board may be difficult to investigate. However, the responsible department and/or the HRO will determine whether a full-scale investigation is appropriate, or whether it is best to engage in alternative actions to address the matter in consultation with Human Resources Services, the Director of Education and/or the superintendent/manager of the affected area. Potential actions may include conducting site reviews, environmental scans, investigations, recommending training/learning, or providing feedback and recommendation to identify and address any potential barriers and risks. Complainants who make anonymous complaints will not receive a formal summary or report.
- 1.6.2 There are also situations where the complainant is known but wishes to remain anonymous or the complainant states that they do not wish for formal action/investigation to be taken. This is **not** a true anonymous complaint and depending on the nature of the information provided, the HWDSB may be required to continue to act on the issues identified in the complaint to comply with its legal obligations and to address any potential concerns or potential sources of liability. While the Board will strive to maintain the confidentiality of the complainant, it may not be possible to do so, given the requirements of a fair procedure.
- 1.6.3 Individuals who insist on complete anonymity should consider HWDSB's *Whistleblower Policy*.

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1.7 Time Limit

- 1.7.1 Reports or complaints made under this procedure should be made immediately after the alleged incident has occurred. The passage of time between the alleged incident and the reports or complaints will affect the HWDSB's ability to investigate and address the report/complaint. In all cases, reports/complaints/concerns must be made within **one (1) year** of the date of the alleged incident(s) or the last incident in a series of incidents. In some circumstances, such as where the delay has been incurred to resolve matters informally or for other good reason, a complaint made outside of this timeline may be considered in consultation with the Human Rights Office and/or the Director of Education.

1.8 Vexatious, Frivolous, Bad Faith Complaints

- 1.8.1 In cases where the complaint is found to be vexatious, frivolous, made in bad faith or would if investigated, constitute an abuse of the procedure, the complainant may be subject to disciplinary action.

2.0 Resolution Processes

There are two (2) general processes available for the resolution of concerns and complaints: Early Resolution Process, and Formal Resolution Process. In both types of resolution processes:

- i. Complainants and respondents are expected to participate in the resolution process in good faith. Deciding not to participate in the process will not prevent an investigation from proceeding and investigators may move forward with the information available to them.
- ii. Parties involved have the right to seek the assistance of a support person(s) at each stage of the resolution process.
- iii. Parties and support persons involved must maintain respect and confidentiality to preserve the integrity of the early resolution process and/or investigation.
- iv. Upon receiving concerns or complaints of an egregious or significant nature, the Board agent addressing the matter (Supervisor, Manager or HRO) may determine whether it should proceed directly to the Formal Resolution Process or other appropriate course of action.
- v. At any stage of the resolution process, it may be necessary to implement interim measures to protect the environment of the complainant(s) and/or Respondent(s). There may be situations where it is appropriate to separate the complainant(s) and respondent(s), or to set clear expectations in order to prevent further issues. These arrangements may be made for an interim period pending the outcome of the complaint resolution process. Interim measures are not disciplinary and do not involve any finding of breach of the Human Rights

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Policy. In cases that involve employees, any decision around separation of parties will be made in consultation with the supervisors of the employees involved and Human Resources Services.

- vi. The HWDSB is entitled to make a preliminary assessment to determine if the report/complaint/ concern falls within the Human Rights Policy and procedure. If upon the Board's first review of the complaint/concern (acting in its reasonable discretion), it is clear that there is no relation to any protected ground, this Human Rights Complaints Resolution Procedure will **not** apply and the parties will be either:
 - be directed to deal with the matter in an informal manner using other resources
 - for other types of harassment that are not related to a protected ground, directed to address the matter through other policies as applicable, for example, *Workplace Harassment and Prevention Policy*.
- vii. Participants in the resolution process (complainants, respondents and witnesses) who are employees of the Board, are entitled to time away from work with pay to participate in meetings, provided appropriate arrangements are in place with supervisory/management approval. These arrangements should be made by the employee themselves and may involve the support of the HRO and their union/association/federation representative, as required.
- viii. Indigenous Cultural Safety in the Resolution Process: HWDSB upholds and affirms Indigenous peoples' distinct, inherent and collective rights. This applies to human rights resolution processes. The Board recognizes that the complaints resolution process outlined in this procedure may not be appropriate for some Indigenous members of the HWDSB community and may not align with Indigenous ways of conflict resolution and restoring relationships. Therefore, applying the strategies outlined in the [Indigenous Education Circle Strategic Action Plan\(IECSAP\)](#); Indigenous Cultural Safety, culturally relevant and responsive approaches to Indigenous based conflict resolution and restorative approaches shall be considered and prioritized. Where one or more parties to an incident/complaint identify as Indigenous, and with the consent of the parties involved, the following considerations will be made:
 - Priority will be given to addressing incidents/complaints in a manner aligned with Indigenous practices regarding conflict resolution and restoration. This process, depending on the case and consent of all parties involved, may be led and supported by the Indigenous Cultural Safety Team.
 - Individuals who identify as Indigenous are entitled to seek a culturally relevant Support person. The support may be provided by the members of the Board's Indigenous Cultural Safety team or by external community members, such as an aunty, knowledge keeper, elder, family member or advocate.
 - When appropriate, and with the guidance of the Indigenous Cultural Safety Team, Indigenous Cultural Safety and culturally relevant resolution methods may be

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incorporated into any of the other resolution approaches in this procedure (Personal Resolution, Alternative Resolution, Formal Resolution/ Investigations).

2.1 Early Resolution Process

2.1.1 Personal Resolution

Any HWDSB community member who has a concern may attempt the Personal Resolution process, which may include:

- 2.1.1.1 If possible and safe to do so, informing the person who is the source of the behaviour (respondent), either verbally or in writing, that the conduct is unwelcome, and the behaviour must stop. Supervisory or managerial staff can be engaged to help facilitate this informal dialogue. In situations where there is a possibility that approaching the respondent could result in escalation of the comment or conduct, or where there may be safety risks, Personal Resolution is not recommended. After attempting Personal Resolution, if the behaviour continues, the individual experiencing or witnessing the alleged harassment should report the behaviour and/or make a complaint.
- 2.1.1.2 For Concerns that may be systemic (e.g., discriminatory decisions, policies, procedures and other business practices), notify a supervisor/manager who has decision-making responsibility close to the concern at hand and/or notify the HRO. If the issue is not addressed within a reasonable timeline, a formal complaint to the HRO may be made.
- 2.1.1.3 While attempting a Personal Resolution, the Human Rights Office (HRO) can be contacted for information about the Human Rights Policy, this procedure and consult on the issue without providing identifying details. The HRO does not play an advisory role to either the complainant or respondent, except to the limited extent of providing information and consult on potential next steps.
- 2.1.1.4 Those involved in informal Personal Resolution are encouraged to keep a detailed record of the behaviour or incident including date(s), time(s), location(s) and witness(es) and the outcome after attempting Personal Resolution.

2.1.2 Alternative Resolution

Alternative Resolution may be used to resolve complaints involving a facilitator or mediator without investigating or assessing the merits of the allegations. Supervisors,

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managers, HRO employees or other person appointed by the Board can serve as the facilitator or mediator. Alternative Resolution approaches are based on a restorative model to conflict resolution and should be culturally responsive, timely, collaborative, flexible and focused on repairing harm, fostering and restoring relationships.

- 2.1.2.1 For a successful Alternative Resolution, the complainant must provide detailed information about the concern or incident (what happened, when it happened, where it happened, who witnessed it, whether or not Personal Resolution was attempted, what outcomes the complainant is looking for).
- 2.1.2.2 Alternative Resolution provides a voluntary mechanism for concerns or complaints to be resolved by providing a structured environment to the parties to reach a reasonable resolution.
- 2.1.2.3 In Alternative Resolution, fact-finding discussions, clarification of the issues, facilitated conversations, mediation, voluntary agreements, reconciliation and/or restoration processes may be used if both parties mutually agree to participate respectfully.
- 2.1.2.4 Alternate Resolution may not be appropriate:
 - 2.1.2.4.1 For concerns that are egregious in nature.
 - 2.1.2.4.2 If only one party is committed to the process.
 - 2.1.2.4.3 When there is a significant power imbalance between the parties.
 - 2.1.2.4.4 When physical and psychological safety cannot be maintained.
 - 2.1.2.4.5 Where HWDSB is obligated by law to engage in a formal resolution/ investigation.
- 2.1.2.5 Information collected during an Alternative Resolution process cannot be introduced as evidence in any future investigation unless required to do so by law.
- 2.1.2.6 A meeting between the complainant and the respondent will not be a requirement for Alternative Resolution.
- 2.1.2.7 If the parties agree to resolve the concern or complaint through an Alternative Resolution process, the facilitator may assist in documenting the outcomes. Any settlement document must be mutually accepted by the parties and must be consistent with the Human Rights Policy.
- 2.1.2.8 A resolution of a concern or complaint may be required to be supported by a union and/or other employee group in the case of parties who are

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employees. A copy of the signed resolution agreement will be provided to all parties and will be provided to the person(s) with supervisory responsibilities who have responsibility for implementing or monitoring the terms of the settlement.

2.1.2.9 Alternative Resolution does not lead to disciplinary outcomes, unless agreed to by the parties.

2.1.2.10 When an Alternative Resolution process is not successful, the next step is Formal Resolution.

2.2 Formal Resolution

2.2.1 A Formal Resolution can be initiated when Early Resolution attempts are not appropriate, where the complainant does not wish to participate in an Alternative Resolution from the onset, where the Alternative Resolution process was not successful or where any party declines to participate in an Alternative Resolution process.

2.2.2 To initiate a Formal Resolution, the complainant reports the incident as outlined in section 1.0 of this procedure. Usually, it will be the individual affected by the alleged discrimination or harassment who will file a formal complaint. Nonetheless, complaints may also be filed by persons who witnessed the discriminatory and/or harassing conduct or behaviour. This process applies to individual and/or group complainants and respondents.

2.2.3 The Formal Resolution process means a full investigation of the allegations will be conducted.

2.3 Investigation Process

2.3.1 The investigation process must be impartial, timely, fair and address all relevant issues. There are three types of investigations: supervisor/manager led, Human Rights Office led, or third-party investigations as assigned by the Board.

2.3.2 In all cases, the assigned investigator is responsible for ensuring a thorough, fair and impartial investigation of the allegations in the complaint. The investigator will interview the complainant(s), the respondent(s), and relevant witnesses suggested by the complainant(s) and respondent(s), as well as gather and review documents relevant to the matters.

2.3.3 All members of HWDSB involved in a complaint are required to cooperate with the investigation process. Deciding not to participate in the process will not

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prevent an investigation from proceeding and investigators may move forward with the information available to them.

- 2.3.4 The person or department (e.g., the HRO) receiving the complaint will notify the person(s) complained against – the respondent(s) - of the complaint and provide the Respondent(s) with a summary of the written complaint. The respondent will be given time (up to five (5) business days) to prepare a written response to the allegations.
- 2.3.5 The HWDSB will respect the right of both the complainant and respondent who are a member of a union or association to have union/association representation in this process. The HWDSB will notify union members of their right to have union representation in this process. A union member may notify the union or request that the investigation lead notify the union. In some situations, the HWDSB may be obliged to advise the union of the existence of a complaint against a union member.
- 2.3.6 Complainants and respondents are entitled to have a support person present at investigation meetings who may provide appropriate supports.
- 2.3.7 The investigator will, whenever possible, complete the investigation within 90 days of receiving the assignment.
- 2.3.8 At the conclusion of the investigation, the investigator will prepare a written report summarizing the allegations, the investigation findings, and whether they believe there has been a breach of the Human Rights Policy. The investigator will send the report to the decision-maker(s) with supervisory responsibilities in the area, and/or Human Resource Services. Depending on the case, the investigator's report may include recommendations on next steps, potential outcomes and remedies.
- 2.3.9 The complainant(s) and the respondent(s) will each be provided with a private and confidential letter with a summary of the investigator's finding and with the decision regarding outcomes.
- 2.3.10 Based on the findings of the investigation, the decision-maker(s) will decide whether the Human Rights Policy has been violated. If the policy has been violated, the decision-maker(s) with supervisory responsibilities will determine any appropriate actions according to applicable policies and procedures (e.g., Staff Progressive Discipline policy and Student Progressive Discipline Policy).
- 2.3.11 The standard of proof to be applied in a human rights investigation is a Balance of Probabilities. This means that based on the evidence and information gathered, the allegations are more likely than not to have occurred as described.

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Even when the allegations are “proven”, it may not necessarily follow that a policy violation has occurred.

- 2.3.12 Where a violation of a policy is found, the decision-maker(s) will also take any steps necessary to repair the effects of the violation, and to prevent any further recurrences within the Board. Investigators and/or decision makers will also assess the effects on the learning and working environment, such that steps can be taken to prevent a poisoned environment. Follow-up action may include:
 - 2.3.12.1 Counseling for the parties.
 - 2.3.12.2 Application of strategies to restore a positive learning/working environment.
 - 2.3.12.3 Specific training and professional development.
 - 2.3.12.4 Separation of respondent(s) and complainant(s).
 - 2.3.12.5 Termination of contractual relationship(s).
 - 2.3.12.6 Access restrictions.
 - 2.3.12.7 Other restorative/corrective measures and potential disciplinary action.

2.4 Review (Appeal) Process

- 2.4.1 Within 10 business days of having received the summary of findings, the complainant(s) or respondent(s) may request, in writing, to the Human Rights Office for a review of the findings for one or both of the following reasons:
 - 2.4.1.1 Non-compliance with the procedure.
 - 2.4.1.2 New evidence has arisen that was not known to the parties or the Investigator prior to the writing of the report.
- 2.4.2 The Human Rights Office may:
 - 2.4.2.1 Affirm the findings.
 - 2.4.2.2 Direct a review of the findings by the original investigator if one of the above reasons are given satisfactorily.
 - 2.4.2.3 Require a new investigation be undertaken.
 - 2.4.2.4 Such other order or remedy that is, in its good faith discretion, appropriate, given the purposes of the Human Rights Policy.

2.5 Reprisal

- 2.5.1 The Human Rights Policy prohibits reprisal or threats of reprisal against any person who, sincerely and in good faith, makes use of the Human Rights Policy, this procedure and related legislation, and/or the *Whistleblower Policy*. This means persons who make a complaint, as well as anyone else who is involved in an investigation, should not face negative consequences for taking part in the complaint process. Any individual who believes that they are the subject of reprisals or threats should report their concerns under this procedure to the

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Human Rights Office directly. Where appropriate, individual(s) responsible for the reprisal will face consequences according to applicable policies and procedures.

2.6 Confidentiality and Privacy

To protect the interests of all parties involved, confidentiality is maintained throughout the complaint resolution process to the extent possible, subject to all relevant legal considerations.

- 2.6.1 It is the duty of all persons to maintain confidentiality in the complaint resolution process. All complainants, respondents and other persons involved (e.g., witnesses, support person) with the complaint resolution processes under this procedure will ensure that all matters remain confidential. Witnesses should be informed that staff who are in charge of an investigation and obtain statements from witnesses (including supervisory, managerial, HRO and Human Resources employees), will maintain such statements in confidence, subject to their ability to conduct a full and thorough investigation.
- 2.6.2 Confidentiality does **not** mean anonymity. Procedural fairness requires that the respondent to a complaint be provided with the necessary information to respond to the complaint and give their version of events. In most cases, this means that as early as possible, the respondent be apprised of the details of the complaint and by whom it has been made, so that they have an opportunity to respond to the allegations. This may also require the disclosure of witness names and statement.
- 2.6.3 A complainant has the right to withdraw a complaint at any stage defined in this procedure. At the same time, the 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 any potential concerns.
- 2.6.4 When the Board determines the safety of an individual or the community is at risk, it might not be possible to maintain confidentiality. The Board will share identifying information only in circumstances where it is necessary in order to apply the Human Rights Policy, to address safety concerns, or to satisfy a legal reporting requirement. In such circumstances, the minimum amount of information needed to allow such concerns to be addressed, or to meet such requirements, will be disclosed. These circumstances are considered when the Board is considering disclosure:
 - 2.6.4.1 When an individual is at risk of harm to self or others.
 - 2.6.4.2 When there are reasonable grounds to be concerned about a safety risk in the future.
 - 2.6.4.3 When disclosure is required by law and/or to comply with the reporting requirements of regulatory bodies and/or professional licensing bodies.

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2.6.5 All documents related to a complaint, including the written complaint, witness statements, investigation notes and reports, will be securely maintained by the investigator and/or Human Rights Office, separate from personnel files.

2.7 Records

2.7.1 All correspondence and other documents generated by the Human Rights Office under these procedures must, subject to all legal considerations, be stored in a locked and secure file in the Human Rights Office. Records will be retained per legislated requirements.

2.8 Data Collection and Reporting

2.8.1 The Human Rights Office is responsible for collecting and reporting annual, anonymized, aggregate data on the number of human rights concerns and complaints reported and resolved through the Human Rights Office.

2.8.2 Supervisory/managerial staff that receive and address human rights concerns and complaints are responsible for properly documenting human rights incidents, the complaints resolution process they used and the outcomes.

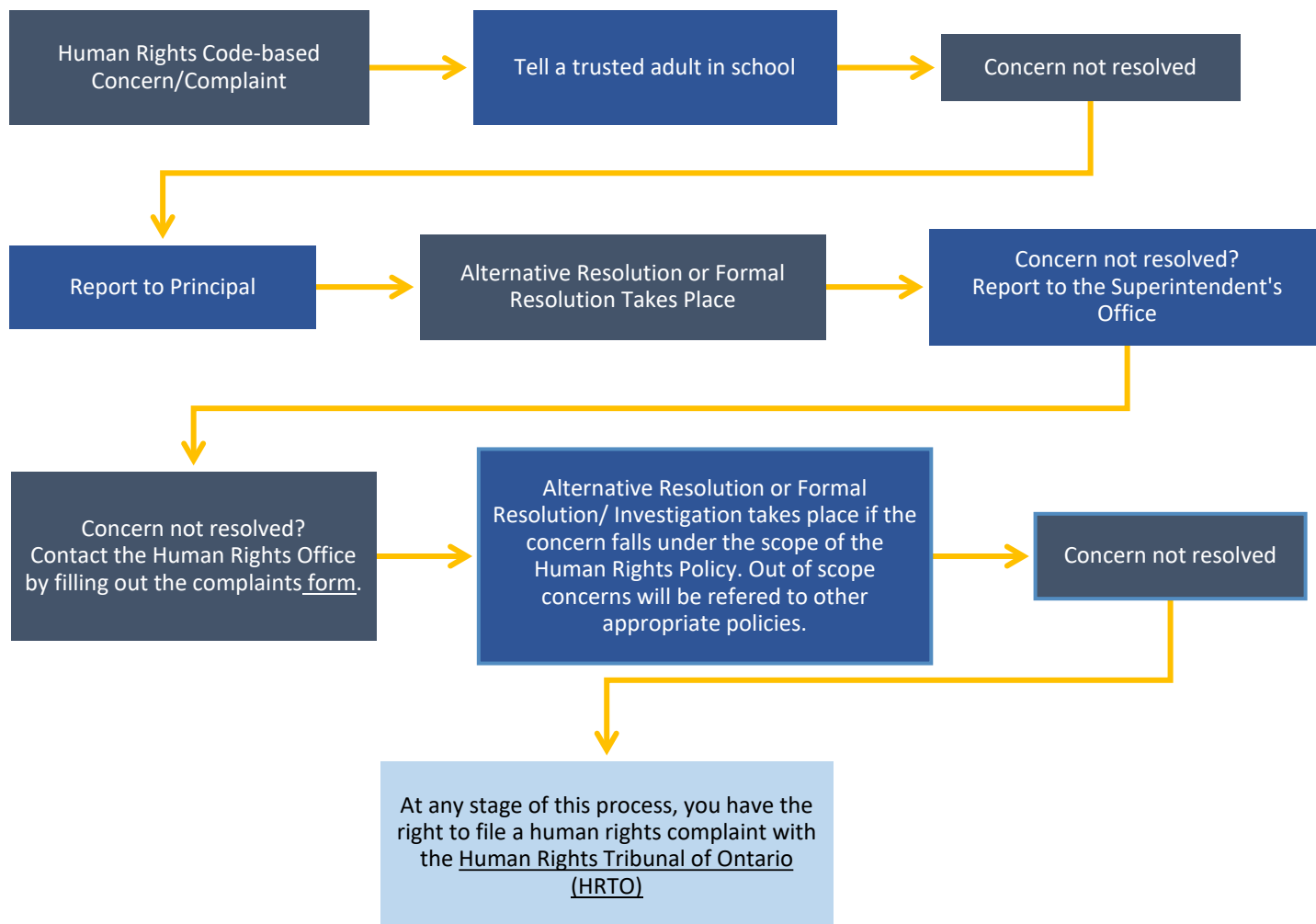
2.8.3 The Board will develop a system for supervisors/managers to document and provide anonymized and aggregated data on human rights concerns that are reported, addressed and resolved at their sites and/or referred to the HRO. The HRO will be responsible for using this data to prepare a board wide annual report.

3.0 Annual Review

3.1 This procedure will be reviewed as often as is necessary, but at least annually in consultation with the Director of Education.

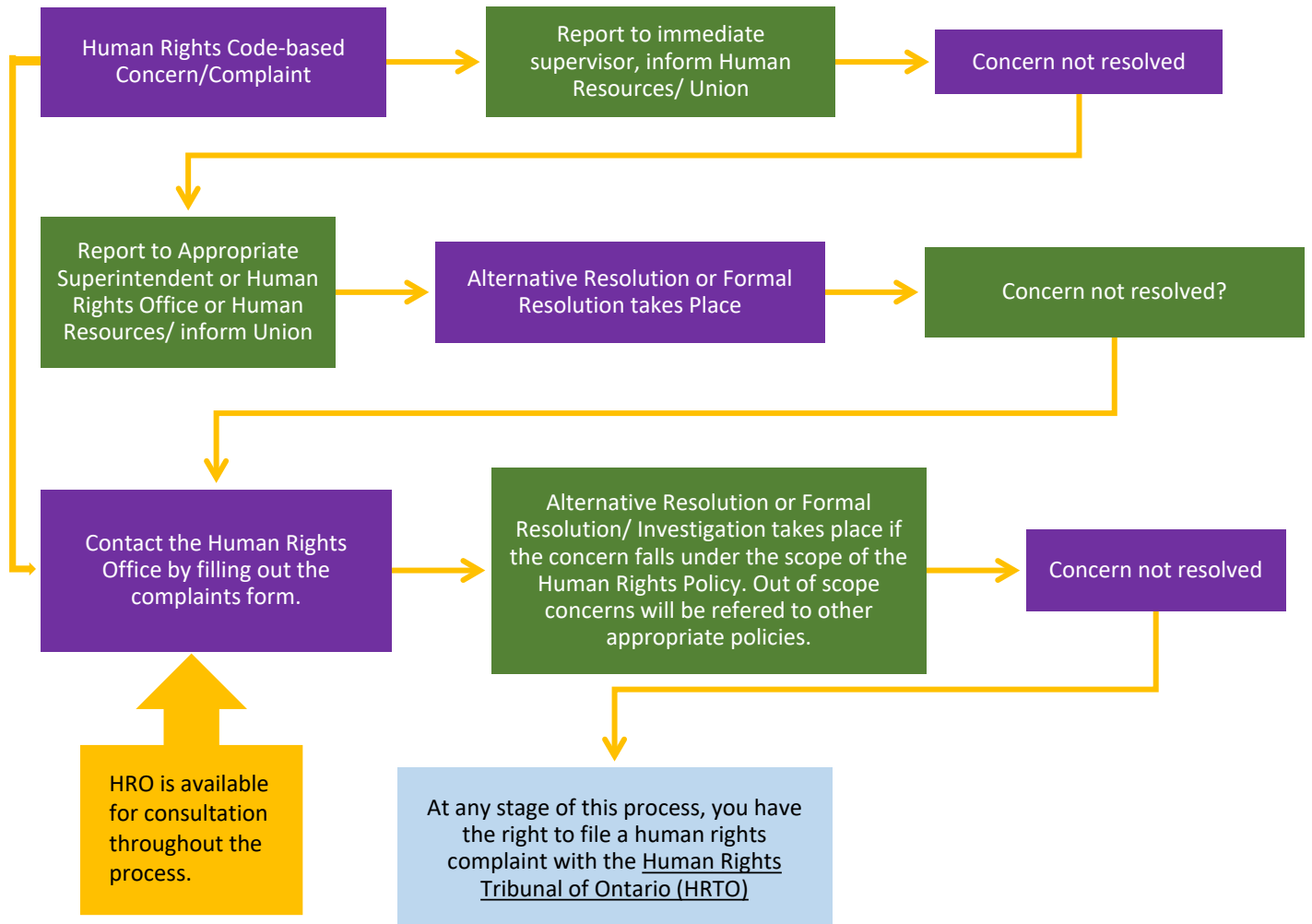
HUMAN RIGHTS COMPLAINTS RESOLUTION PROCEDURE

APPENDIX A: Addressing a Human Rights Concern – For Students and Families



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APPENDIX B: Addressing a Human Rights Concern – For Employees



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APPENDIX C: Direct Reporting to the Human Rights Office (HRO)

It is encouraged that concerns and complaints be addressed promptly at the school and department levels as much as possible. Those bringing concerns may choose to contact the HRO directly. In addition, a complaint may be referred to the HRO in circumstances where the matter is complex, when the matter is involves systemic discrimination and/or the matter cannot be resolved through a supervisor/manager led process because of existing or perceived power imbalances, fear of reprisal, a perception of bias or conflict of interest. Reports to the HRO can be done through the Human Rights Complaints Form ([Appendix D](#)) or by emailing the HRO at humanrights@hwdsb.on.ca.

1. Upon receiving a complaint or concern, the HRO will review the complaint and:
 - a. Offer the complainant a confidential consultation within five (5) business days of receiving the complaint to determine the next steps, including if Early Resolution has the potential to resolve the conflict.
 - b. Initiate a preliminary threshold assessment to determine if the allegation:
 - i. Is based on a protected ground and falls under Human Rights Policy.
 - ii. Involves a social area and shows that a protected ground is a factor in the allegedly adverse treatment.
 - c. Refer other complaints to be addressed through other appropriate policies or procedures.
2. After conducting the initial threshold assessment, the HRO will initiate the Early/ Alternative Resolution or the Formal Resolution process, as appropriate.
3. If the Formal Resolution (investigation) process is pursued, the HRO will assign an investigator. Depending on the complexity of the case, the investigator may be a member of the HRO staff or a third-party external investigator. An HRO staff member who was involved in an Alternative Resolution process will not serve as an investigator for the same case.
4. In consultation with the appropriate person(s) with supervisory responsibilities or Human Resource Services, the HRO will determine if any interim measures are required.
5. The HRO will not be involved in complaint management if:
 - a. The matter is clearly not based on a protected ground.
 - b. A prior Formal Resolution process has been completed with respect to the same or substantially similar facts, the Review (Appeal) Process under 2.3 of this procedure has been completed, and the complainant is still not pleased with the outcome.
6. When an agreement/settlement is reached through an Alternative/ Early Resolution process, the HRO will provide a written report to all parties involved, including decision-makers, to ensure the terms of the agreement will be honoured and implemented.
7. At the conclusion of an investigation, the HRO will provide all parties involved and decision-makers with the findings of the investigation in writing. The HRO may also provide recommendations for remedies and next steps to the decision-maker(s).

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8. If the concern or complaint involves systemic discrimination, the HRO, in consultation with the Director of Education and other decision-makers with supervisory responsibilities, will initiate an inquiry and/or investigation and will recommend appropriate next steps/actions.

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APPENDIX D: Human Rights Complaints/Concerns Form

Reports to the HRO can be done through the Human Rights [Complaints Form \(Click Here\)](#). It is preferred to fill out the online form using the link. For those who don't want to use the online form, the following form can be filled and emailed to the HRO at humanrights@hwdsb.on.ca.

Human Rights Complaints/Concerns Form

First Name: _____

Last Name: _____

Pronouns: _____

Phone Number: _____

Email Address : _____

What is your connection with HWDSB?

Student Parent/Guardian/Caregiver Employee Trustee Volunteer

Representative of a partner organization Other: _____

If you selected 'employee' above:

Please list your work location or site and, if applicable, your employee union group:

Are you currently on medical/sick leave from your position?

Yes No

Where did your concern(s) or the incident(s) you are concerned about occur? Please name the school or department.

What best describes your reason for completing this form?

- ☐ I have a concern that I am experiencing
- ☐ I have a concern that my child(ren) are experiencing
- ☐ I have a concern that a co-worker(s)/other person(s) are experiencing

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- ☐ I am looking for information or guidance on a potential human rights concern
☐ I am looking for information on general human rights processes at HWDSB
☐ Other: _____

Date of the alleged incident/issue: _____

What is the name(s) of the respondent(s)?

**A respondent is a person accused or the person of concern.*

Status of the respondent(s) at HWDSB:

Student

Employee

Other: _____

Please provide the names of other individuals who have knowledge of this matter (for example – witnesses):

Choose the human rights code ground(s) that applies to your concern.

Age

Ancestry

Citizenship

Color

Creed/Religion

Disability

Ethnic Origin

Family Status

Gender Expression

Gender Identity

Marital Status

Place of Origin

Race

Sex

Sexual Orientation

Socio-economic status*

** Socio-economic status is not a protected ground under the code, but protected under the HWDSB human rights policy*

Describe your concern (What happened? Who was involved? When did it happen? Where did it happen?)

Have you reported your concern to the school principal/ superintendent/supervisor/manager/other authority before?

Yes

No

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If you reported your concern, to whom was it reported, and what were the actions taken?

What is the solution/resolution you are looking for?

Do you require the support of an interpreter while meeting with the Human Rights Office?

☐ No

☐ Yes

○ If Yes, in which language do you require interpretation services?

Complainant's Signature

- Submit the copy of the form you filled out to humanrights@hwdsb.on.ca
- Printed copy can be mailed to the HWDSB Human Rights Office, P.O.Box 2558, Hamilton, ON L8N 3L1