

WELCOMING, CARING, RESPECTFUL, AND SAFE LEARNING ENVIRONMENT

Background

Livingstone Range School Division is committed to providing a welcoming, caring, respectful, and safe learning environment that respects diversity, fosters a sense of belonging, and promotes student and staff well-being. Each student and staff member has the right to learn and work in an inclusive environment, free from bullying, discrimination, harassment, and violence where equality of opportunity, dignity, and respect are promoted.

Livingstone Range School Division affirms the rights of students and staff as provided for in the *Alberta Human Rights Act*, the *Canadian Charter of Rights and Freedoms*, and the *Alberta Occupational Health and Safety (OHS) Act, Regulations and Code*. Any form of discrimination of students or staff, as provided for in the *Alberta Human Rights Act*, the *Canadian Charter of Rights and Freedoms*, or the *Alberta Occupational Health and Safety Act, Regulations and Code* will not be tolerated.

The Division is committed to prevent harassment and violence while providing a supportive learning and working environment. In keeping with its legal and social responsibilities as an employer, the Division will treat any complaint by any person as a serious matter. All reported incidents will be investigated in a timely and respectful manner.

This procedure applies to all individuals who work, study, visit or volunteer within the Division's sites during work and school related activities, whether on, or off Division property.

Definitions

1. **Harassment** – any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to a worker, or adversely affects the worker's health and safety. It is behaviour intended to intimidate, offend, degrade or humiliate a particular person or group. It is a serious issue and creates an unhealthy work environment resulting in psychological harm to workers.

Harassing behaviour can include:

- unwelcome conduct, comments, gestures or contact which causes offense or humiliation (e.g. name calling, harassing phone calls, spreading rumours);
- deliberate misgendering (i.e. referring to a person using terms or pronouns that do not align with the person's affirmed gender);
- physical or psychological bullying which creates fear or mistrust or which ridicules or devalues the individual (e.g. fist shaking, yelling);
- exclusion or isolation of individuals;
- intimidation (i.e. standing too close or making inappropriate gestures or comments);

- cyber bullying (e.g. posting or sending offensive or intimidating messages through social media or email);
 - deliberately setting the individual up to fail (e.g. making unreasonable demands, setting impossible deadlines, interfering with work);
 - intentionally withholding information or giving the wrong information;
 - taking away work or responsibility without cause; and
 - displaying or circulating offensive pictures or materials in print or electronic form.
2. **Violence** – whether at the school/worksite or school/work related means the threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm and includes domestic or sexual violence.
- Violent behaviour can include physical attack or aggression (e.g. hitting, shoving, pushing or kicking; throwing an object at a person; kicking an object the person is standing on, such as a ladder);
 - threatening behaviour (e.g. wielding a weapon at work, trying to hit a person, or destroying property);
 - verbal or written threats (e.g. verbally threatening to attack a person, leaving threatening notes or sending threatening emails to express an intent to inflict harm on a person);
 - sexual violence refers to any sexual act, attempt to obtain a sexual act, or other act directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in a school/workplace or school/work related setting; and
 - domestic violence - a pattern of behaviour used by one person to gain power and control over another with whom a person has or has had a personal relationship. Domestic violence becomes a school/workplace hazard, and is no longer limited to a personal issue, when it occurs or spills over into the school/workplace.
3. **Complainant** – a person who believes they or another person has been the subject of Harassment or Violence and who seeks recourse through this procedure.
4. **Respondent** – A person against whom an allegation of Harassment or Violence has been made pursuant to this procedure.
5. **Mediation** – A process by which a neutral third party helps the people involved in the complaint reach a solution that is acceptable to both parties.

NOTE: THE NORMAL EXERCISE OF SUPERVISORY AUTHORITY INCLUDING BUT NOT LIMITED TO TRAINING, DIRECTION, INSTRUCTION, SUPERVISION, EVALUATION AND DISCIPLINE DOES NOT CONSTITUTE HARASSMENT.

PROCEDURES

Harassment and Violence are hazards and are addressed through formal hazard assessments, which are developed and reviewed in consultation with the Joint Work Site Health and Safety Committee as well as affected workers. The hazard assessments identify

potential situations that could put students and workers at risk and outlines steps to eliminate or control the hazards to prevent or minimize harm. Hazard Assessments are reviewed after reported incidents or at least every 3 years.

Staff receive training annually, or as recommended by the Superintendent or the Joint Work Site Health and Safety Committee on recognizing workplace harassment and violence, how to obtain immediate assistance, and how to report incidents.

If an incident of violence occurs and students/staff require immediate assistance, students/staff should call 911 and report to Principal and/or Superintendent to determine further steps that are required to ensure the safety of the affected student/staff member as well as any others.

All incidents must be reported to the Principal, Superintendent or designate. All reported incidents will be investigated. Corrective actions will be taken as required. The circumstances related to an incident as well as the name(s) of the complainant, the person(s) alleged to have committed the act, and any witnesses will not be disclosed unless where necessary or required by law.

1. COMPLAINT RESOLUTION MECHANISMS

- a) A complaint of Harassment or Violence under this procedure may be resolved by any one or more of the following mechanisms:
 - i. **Informal Resolution:** either by the Complainant informing the Respondent directly that their actions are unwelcome and must stop immediately, or where the Complainant is uncomfortable approaching the Respondent directly, requesting that a third party provide assistance by way of informal intervention, including Mediation;
 - ii. **Formal Resolution:** where informal resolution proves unsuccessful or is not appropriate in the circumstances, the Complainant may request a formal investigation initiated by a formal written complaint;
- b) In the absence of a specific complaint of Harassment or Violence, an independent investigation may be initiated by the Superintendent or designate where:
 - i. there is a pattern of inquiries or complaints over time which suggests the existence of a specific problem which has been identified but not corrected;
 - ii. there is reason to believe that a broader, systemic problem exists in the learning and/or working environment which causes, contributes to or encourages Harassment and/or violence;
 - iii. When an employer is aware that a worker is or is likely to be exposed to domestic violence at a work site, the employer must take reasonable precautions to protect the worker and any other persons at the work site likely to be affected;
 - iv. as a result of an investigation, a specific complaint is not supported but there is reasonable evidence to support that a broader systemic problem exists; or
 - v. In any other circumstances that the Superintendent or designate deems it appropriate.
- c) When an independent investigation is initiated as outlined above, the Superintendent or designate shall advise the parties involved of the commencement of an independent

investigation, including the reasons for initiating the investigation, and the process and procedures which will be followed in carrying out the investigation which may include but is not limited to the formal complaint resolution process as outlined in this administrative procedure.

- d) The Superintendent or designate may decide to assign the Complainant and/or Respondent to a different work area/learning environment during the mediation and/or investigation process.
- e) All staff and students are responsible for:
 - i. Complying with this administrative procedure;
 - ii. Making, in good faith, complaints of Harassment and/or Violence;
 - iii. Cooperating with any investigation that is undertaken in accordance with this administrative procedure, and;
 - iv. Not participating in harassment or violence.

2. INFORMAL COMPLAINT RESOLUTION PROCEDURES

a) Making an Informal Complaint

- i. Use of the informal complaint resolution procedures is not a pre-requisite to seeking a formal resolution, however, individuals are encouraged to first take direct action to resolve an issue by advising the Respondent (either verbally or in writing) at the earliest opportunity that his or her actions are unwelcome and tell them to stop.
- ii. If the Complainant has been unable to resolve the issue on their own, or the Complainant is not comfortable approaching the Respondent directly, the Complainant will proceed to make an informal complaint to a person in authority such as a trusted adult, teacher, counsellor, supervisor, principal, or the Superintendent if the complaint involves their supervisor or principal.

b) Responsibility of a Person in Authority receiving an Informal Complaint

When a person in authority receives an informal complaint, the following actions shall be taken in a timely manner by the person in authority to assist in resolving the complaint on an informal basis, namely:

- i. Review the complaint with the Principal, Superintendent or designate to determine the basis of the allegations being made, whether a formal investigation is required, and who is responsible to complete the next steps;
- ii. Notify the Respondent that an informal complaint has been received. The Respondent is entitled to know the name of the person(s) making the informal complaint, as well as the specifics of the allegations such as times, dates and the alleged conduct;
- iii. Meet with the Complainant and the Respondent to outline the allegations and attempt to resolve the complaint informally;
- iv. Provide mediation assistance to both parties if they are willing to engage in mediation; and
- v. Monitor the status of the complaint, holding if necessary, subsequent meetings with the Complainant and Respondent and taking any further steps as deemed

appropriate to ensure that the matter has been satisfactorily resolved.

3. FORMAL COMPLAINT RESOLUTION PROCEDURES

- a) A formal complaint may be filed in the following circumstances:
 - i. If the complaint has not been resolved at the informal level, including through mediation;
 - ii. Should the behavior continue; or
 - iii. If the Complainant, or the person in authority to whom the complaint has been made believe that the nature of the alleged behavior warrants formal resolution.
- b) A formal complaint shall be made in writing to a person in authority, when reasonable to do so, by the Complainant and contain the following:
 - i. the Complainant's name and position if any;
 - ii. who the Respondent(s) was/is/were/are;
 - iii. where the alleged incident(s) took place;
 - iv. when the alleged incident(s) took place;
 - v. the nature of the alleged incident(s);
 - vi. names of witnesses (if any); and
 - vii. what, if anything, was done to stop the bullying, discriminatory, harassing, or violent behaviour.
- c) If the Superintendent is identified as the Respondent, the entire matter shall be directed to the Board.
- d) Upon receiving the formal complaint, the person in authority shall report the complaint to the principal or supervisor, or if the complaint involves the principal or supervisor, the Superintendent, who shall:
 - i. Within ten (10) working days, carry out a preliminary review of the complaint to ensure that it is complete and determine whether or not there are reasonable grounds for investigation.
 - ii. After determining that the complaint is complete and there are reasonable grounds for investigation, the principal, supervisor, or Superintendent as the case may be, shall promptly inform the Complainant and Respondent that a formal complaint has been received and will be investigated. The Respondent(s) has a right to know the specifics of the allegation(s), including times, dates, the alleged conduct complained of, and receive a copy of the complaint.
- e) Complaints are to be made within a reasonable time frame from the date of the initial incident. Complaints, which are brought forward more than one (1) year from the date of the occurrence, may not be investigated at the discretion of the principal, supervisor or Superintendent as the case may be.
- f) If at any point in the formal process, the parties mutually agree that the informal approach is more appropriate, the formal process may be suspended.

4. FORMAL INVESTIGATION PROCESS

- a) Within five (5) working days of informing the parties that a formal complaint has been received in accordance with 3(d) above, an impartial investigator shall be assigned by the Superintendent or designate to conduct an investigation which will consist of interviews of the Complainant, the Respondent(s), and others who may have knowledge of the incident(s) or circumstance(s) that led to the complaint.
- b) In the case of a student Complainant, and/or Respondent, the parents of the student may be contacted at an appropriate time during the investigation at the discretion of the investigator, taking into consideration the age of the child and the nature of the allegations being investigated.
- c) The investigator shall make a written report with the findings of the investigation and recommendations to the Superintendent or designate within thirty (30) working days from the date the Respondent received notice of the complaint.
- d) Timelines may be extended at the discretion of the Superintendent or designate.
- e) Investigation reports are retained for at least 2 years after the incident.

5. OUTCOME

- a) Within ten (10) working days of receiving the Investigation report, the Superintendent or designate shall review the investigator's report and decide whether, on a balance of probabilities, there is enough evidence to conclude that Harassment or Violence has occurred.
- b) The Superintendent or designate shall communicate their decision to the parties and the parents/guardians of the Complainant and/or Respondent student as the case may be (unless the student is determined to be an independent student). Such communication shall be in accordance with the Freedom of Information and Protection of Privacy Act. Specifically, the information provided to the Complainant will be limited to the finding of whether or not Harassment or Violence has occurred within the meaning of the associated legislation and this administrative procedure, and whether or not disciplinary action will be imposed as a result. The specific nature of any disciplinary action taken against the Respondent(s) or others will not be disclosed to the Complainant or the parents/guardians of a Complainant.
- c) When the Superintendent or designate finds the complaint is founded, he/she shall determine appropriate corrective action which may include, but is not limited to:
 - i. Discipline of an employee found to have committed an action of Harassment or Violence, which may range from a reprimand up to and including termination of employment;
 - ii. Removal of the Respondent from the working or learning environment;
 - iii. Referral of the Complainant and/or Respondent to available supports such as the Division's Employee Assistance Program where applicable or other support resources within or outside of the school; and/or
 - iv. Initiate a formal evaluation of the Respondent if the complaint is related to staff performance.

6. UNSUBSTANTIATED COMPLAINTS

- a) If a person, in good faith, files a complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed, and no record of it will be put in the Respondent's file/ student record.
- b) If the complaint made (informal or formal) is determined, based on a balance of probabilities, to be made in good faith, there will be no penalty to the person who complained, and no record of a complaint, investigation, or decision will go in the Complainant's personnel file/student record.

7. COMPLAINTS MADE IN BAD FAITH

- a) If the complaint made (informal or formal) is determined, based on a balance of probabilities, to be made in bad faith, is vexatious or is clearly without merit, the complaint process shall be discontinued and disciplinary action may be taken against the Complainant , up to and including dismissal from employment, or exclusion from the Division's working and learning environment.

8. CONFIDENTIALITY

- a) The Division recognizes the difficulty of reporting Harassment and Violence and understands that confidentiality is important to Complainants.
- b) In order to carry out both informal and formal investigations under this procedure, all complaints and information gathered in the course of investigating a complaint, including the identity of the Complainant, Respondent and any witnesses, will only be disclosed:
 - i. As necessary for the purposes of this administrative procedure and to conduct any investigation in accordance with the principles of fairness and natural justice;
 - ii. In accordance with FOIP or any other statute; and
 - iii. Where disclosure is necessary due to an imminent threat to the safety of the Complainant or others.

9. RETALIATION

- a) Retaliation against individuals who have reported a complaint (informal or formal) or against any participants involved in an investigation under this administrative procedure will not be tolerated.
- b) Alleged acts of retaliation will be considered Harassment under this procedure and shall be investigated as a formal complaint, and if substantiated, will be subject to the same consequences as a founded complaint of Harassment.

10. RECORDS

- a) All records related to an investigation of Harassment, Violence or retaliation must be kept separate from a Respondent's personnel file, except when the allegations are determined to be substantiated.
- b) Records of student complaints and any disciplinary actions taken as a result, must be kept in accordance with the Student Record Regulation 97/2019.

- c) Investigation records are retained for at least 2 years after the incident.

11. OTHER ACTIONS

- a) In addition to seeking informal or formal resolution of a complaint of Harassment or Violence, nothing in this administrative procedure restricts a person's legal right to:
 - i. Make a complaint with the Alberta Human Rights Commission;
 - ii. Contact the police;
 - iii. Seek legal advice; or
 - iv. File a complaint with a professional regulatory body or employee union or association as applicable;

- b) Nothing in this administrative procedure negates an individual's duty to report behaviour to the proper authorities that gives the person reasonable and probable grounds to believe that a child is in need of intervention as required by the Child, Youth and Family Enhancement Act.

- c) A parent or a student, who is 16 years of age or older, may appeal a decision made by a Division employee that significantly affects the education of a student, as per Policy 14 Appeals Regarding Student Matters.

New Policy Dec. 2014

References

Alberta Occupational Health and Safety Act, Regulations and Code, 2018
Section 33, 52, 53, 197, 204, 222 Education Act
Alberta Human Rights Act
Board Policy 21
Board Policy 14
Administrative Procedure 308 Sexual Orientation and Gender Identity
Administrative Procedure 350 Student Expectations and Discipline

Updates: Numbering change from 308 to 307 - February, 2016
January, 2018; June, 2018, February, 2020