

FORT LA BOSSE S.D. # 41

TITLE - HARASSMENT*

POLICY - GBAA

Approval Date - 09/02/98

Cross Reference -

Resolution # - 37/98

Implementation - 09/02/98

Legal Reference -

PURPOSE

This policy statement is not intended to constrain social or professional interaction, but to ensure that students and employees of Fort La Bosse School Division No.41 may go about their work free from harassment. The Division affirms its commitment to fair treatment, and will not condone behaviour that jeopardises the dignity or well being of any student or employee. The policy seeks to protect, not to persecute.

SCOPE

This policy applies to the conduct of all employees and students of the Division in the performance of their duties and responsibilities whether:

- (a) in the workplace, **OR**
- (b) outside the workplace while engaged in any activity which is required, sanctioned or sponsored by the Division; **OR**
- (c) otherwise related to their employment by the Division.

DEFINITION OF HARASSMENT

For the purpose of this policy statement "harassment" shall include, but not be limited to, the following:

1. A. Any incident or series of incidents of abusive or unwelcome conduct, comment or other behaviour toward another person, based on any of the following characteristics:
 - (i) ancestry, including colour and perceived race;
 - (ii) nationality or national origin;
 - (iii) ethnic background or origin;
 - (iv) religion or creed, or religious belief, religious association or religious activity;
 - (v) age;
 - (vi) sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
 - (vii) gender determined characteristics or circumstances other than those included in clause (vi)
 - (viii) sexual orientation;
 - (ix) marital or family status;
 - (x) source of income;
 - (xi) political belief, political association or political activity;
 - (xii) physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant or any other remedial appliance or device.

WHEN such conduct is known, or reasonably ought to be known, by the person alleged to have committed it, to be abusive or unwelcome to the recipient;

AND WHEN:

- (a) Such conduct does, or reasonably could, cause the recipient insecurity, discomfort, offense or humiliation; **OR**
- (b) Submission to such conduct is made a condition of employment, promotion, a passing grade, job security or other benefit or advancement; **OR**
- (c) Such conduct interferes with the work or study performance of the recipient; **OR**
- (d) Such conduct is experienced at the instance of any person who is in a position of authority over, or is in a position to confer or deny any benefit to, the recipient.

B. Any incident or series of incidents of abusive or unwelcome conduct, comment or other behaviour toward another person, characterised by anyone or more of the following:

- (i) Sexist jokes or the use of sexually degrading words to describe an individual;
- (ii) The display of sexually offensive or obscene material, or material depicting violence or degradation of a sexual nature;
- (iii) Sexually suggestive or obscene comments, or other behavior including leering or other non-verbal conduct or gestures;
- (iv) Sexual solicitation, flirtation, sexual advances or propositions, or requests or demands for sexual favours;
- (v) Physical contact or touching, including patting, pinching, squeezing or brushing against another person;
- (vi) Reprisal or threat of reprisal for refusing any sexual solicitation or advance

WHEN such conduct is known, or reasonably ought to be known, by the person alleged to have committed it, to be abusive or unwelcome to the recipient;

AND WHEN:

- (a) such conduct does, or reasonably could, cause the recipient insecurity, discomfort, offense or humiliation; **OR**
- (b) submission to such conduct is made a condition of employment, promotion, a passing grade, job security or other benefit or advancement; **OR**
- (c) such conduct interferes with the work or study performance of the recipient; **OR**
- (d) such conduct is experienced at the instance of any person who is in a position of authority over, or is in a position to confer or deny any benefit to, the recipient.

C. Any other incident or series of incidents of abusive or unwelcome conduct, comment or other behaviour toward another person, whether herein before specifically described or not,

WHEN such conduct is known, or reasonably ought to be known, by the person alleged to have committed it, to be abusive or unwelcome to the recipient;

AND WHEN:

- (a) such conduct does, or reasonably could, cause the recipient insecurity, discomfort, offense or humiliation; **OR**
- (b) submission to such conduct is made a condition of employment, promotion, a passing grade, job security or other benefit or advancement; **OR**
- (c) such conduct interferes with the work or study performance of the recipient; **OR**
- (d) such conduct is experienced at the instance of any person who is in a position of authority over, or is in a position to confer upon or deny any benefit to, the recipient.

2. Any reprisal, or threat of or attempt at reprisal, made by a person who is alleged to have been guilty of harassment, and is directed towards the Complainant, or any attempt to influence a witness shall be considered a fresh and separate instance of harassment and shall be dealt with as such

THE POLICY

Fort La Bosse School Division No.41 does not condone the harassment of any employee or student. Such conduct is unacceptable and may result in disciplinary action, including dismissal. Disciplinary action, if any, will be taken only in accordance with the procedure set out in this policy statement. No employee will be dismissed for violation of this policy unless he or she has been made aware of the complaints against him or her, and has had an opportunity to appear personally, or by representative or counsel, before the School Board to answer the complaint.

Nothing in this policy statement derogates from any other rights which any employee or student may have under any collective agreement or statute, including The Human Rights Code of Manitoba.

1. Any person who believes that he or she has been harassed within the meaning of this policy (the "Complainant") may initiate a complaint by:

- a) written notice to the alleged harasser (the "Respondent"), with a copy to the immediate supervisor of the Respondent or to the "Senior Officer"; **OR**
- b) written notice to the immediate supervisor of the Respondent, or to the "Senior Officer".

The "Senior Officer" shall be the Superintendent unless the Superintendent is the Respondent. In that case, the Senior Officer shall be the Chairperson of the School Board or his delegate.

If the Complainant is a student, any other person acting on behalf of the student, including but not restricted to a parent, guardian, peer, counsellor, teacher, minister, doctor or social worker may initiate the complaint.

2. The written notice shall specify:

- the nature of the conduct complained of;
- the details of times, dates, places when such conduct is alleged to have occurred, insofar as they may be known;
- the names of any other parties who may have witnessed or been aware of the conduct alleged;
- any other information which may be pertinent to the investigation and resolution for the complaint.

3. Any immediate supervisor who receives such a complaint about a Respondent shall immediately forward it to the Senior Officer.

4. The Senior Officer, immediately upon receiving a notice of complaint or copy thereof, shall

(a) advise the respondent of:

- (i) the fact that a complaint has been made;
- (ii) the particulars of the complaint, including the identity of the complainant and the details of the misconduct alleged, as set out in the notice of complaint;
- (iii) the procedure governing the investigation of such complaints. Mailing or delivering a copy of this Policy Statement to the Respondent shall satisfy this requirement;
- (iv) the right of the Respondent to answer the complaint either in person or by representative or counsel, at any step of the investigation or before the School Board;
- (v) the name of the Investigator who will investigate the complaint;

(b) Begin an investigation of the complaint, either personally or by his or her delegate named for the purpose ("the Investigator").

5. Complaints of Harassment should be made as soon as possible, before memories fade or the quality to evidence begins to deteriorate.

There shall be a limitation period of six (6) months in which to file a complaint of harassment from the time of the behaviour complained of (or the last occurrence of it, if it is a continuing course of conduct).

Such time limit can be reasonably extended if the "Senior Officer" is satisfied that such an extension would not unduly prejudice the Respondent.

INVESTIGATION PROCEDURE

1. The Investigator may interview and obtain voluntary statements from the Complainant, the Respondent or any other witness who, in the opinion of either party or the Investigator, might assist the investigation. No adverse inference may be drawn against any party for the reason only that such party declines to give any statement.

No statement shall be taken from any person under the age of 18 years except in the presence of a parent, guardian, or adult counsellor approved by a parent or guardian, unless the witness and his or her parent or guardian so consents.

No statement shall be audio taped or videotaped without the knowledge and consent of the person giving the statement. The Investigator may maintain a written record of any statement.

The Investigator may requisition such other evidence as may seem relevant and proper to the investigation, and may retain such professional assistance as may in the discretion of the Investigator, be necessary or desirable.

2. During the investigation, the Senior Officer or the School Board, as the case may be, may take such interim measures as seem warranted or advisable, including temporary leave of absence with full pay and benefits, if there is a reasonable apprehension that such action is in the best interests of the parties or the investigation.

If any interim action is taken:

a) Such action shall not be deemed disciplinary in nature, and no entry to that effect shall be made on an employee file. Such action is without prejudice to the right of an affected employee to pursue or to answer the complaint, or to appeal any finding of the Investigator or resolution proposed by the Senior Officer.

3. The investigation of the complaint shall be conducted as expeditiously as possible. The Investigator shall report, in writing to the complainant and the Respondent as to the status of the investigation within twenty working days of the date of notice of complaint, and every twenty working days thereafter until completion.

4. Immediately upon conclusion of the investigation, the Investigator shall report his or her findings to the Senior Officer who shall, within seven days of receipt, advise the Complainant and the Respondent of:

(a) the findings of the Investigator;

(b) the measures proposed to resolve the complaint;

(c) the date of the next regular or special School Board meeting, to which either party may appeal either the findings or the measures proposed, or both.

APPEAL PROCEDURE

1. The Respondent and the Complainant shall have seven days from the date of receipt of such written notice to file with the Secretary-Treasurer of the Division a written notice of appeal setting out:
 - (a) the portion of the decision of the Senior Officer which is being appealed (i.e., findings, resolution, or both); and
 - (b) the grounds for the appeal.

The Secretary-Treasurer, on receiving such a written notice of appeal shall advise both parties in writing of the date on which the School Board will meet to hear the appeal. The date of such meeting shall be not less than seven days after written notice has been mailed or delivered to the parties. If the parties or either of them are unable to attend such an appeal meeting on the date proposed, the School Board shall grant such reasonable extension of time, not exceeding 30 days from the date proposed, as may in its discretion be warranted by circumstance.

Both the Complainant and the Respondent shall be entitled to attend the meeting at which the appeal is heard, and to be heard by representation or counsel. The Senior Officer or the Investigator may present the findings of the Investigator and the action recommended by the Senior Officer, but in such a case, neither shall further participate in the deliberations or decisions of the School Board on the matter.

Upon hearing the evidence brought before it at such an appeal meeting, the School Board may:

- (i) dismiss the complaint as being frivolous or vexatious, or not in contravention of the policy, or not sufficiently founded in evidence; **OR**
- (ii) uphold the complaint; **OR**
- (iii) rescind, vary or modify the decision of the Senior Officer: **OR**
- (iv) take any such other action as it deems just.

The decision of the School Board following such an appeal meeting, shall be communicated in writing to the Complainant and the Respondent forthwith.

