GREATER ESSEX COUNTYDISTRICT SCHOOL BOARD

Policy: Human Rights

Reference No: P-AD-48

The Greater Essex County District School Board is committed to providing a learning and working environment that actively promotes and supports the dignity, worth, and human rights of all. The Board strives to create a culture of understanding and mutual respect in accordance with the *Ontario Human Rights Code*, the *Canadian Charter of Rights and Freedoms* and the *Ontario Occupational Health and Safety Act.*

Students, staff and community members have the right to learn and work in a culture free of discrimination and harassment where equity prevails. The Board shall condemn and refuse to tolerate all manifestations of discrimination and harassment based on the protected grounds*. Any form of harassment and or discrimination based on the protected grounds* will be dealt with in a timely manner, with sensitivity and fairness. The Board has established a complaint procedure and will protect from reprisal those individuals participating in the process including complainants, witnesses, advisors, representatives, investigators, and decision makers unless anyone of these persons acts maliciously or in bad faith.

The right to freedom from harassment and discrimination are based on the protected grounds under the *Ontario Human Rights Code.*

Workplace Harassment and Workplace Sexual Harassment could also fall under the “protected grounds” of the Ontario Human Rights Code.

This policy and regulation applies to all members of the Greater Essex County District School Board’s community including, but not limited to, students, staff, trustees, contractors, parents/guardians, volunteers, permit holders and all others on Board property. It also covers harassment and/or discrimination by such persons when engaged in a Board-related activity or undertaking, even if off Board property.

Everyone working within the Board community is expected to uphold the policy and regulation and to work together to prevent discrimination and harassment.

Nothing in this policy or regulation denies or limits access to other avenues of redress open under the law such as an application to the Human Rights Tribunal of Ontario or a grievance under a collective agreement.

*protected grounds: age, ancestry, citizenship, colour, creed, disability, ethnic origin, family status, , gender identity, gender expression, marital status, place of origin, race, receipt of public assistance, record of offences, , sex, sexual orientation.
▪only in respect to housing / accommodation

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1.0 INTRODUCTION

The Greater Essex County District School Board is committed to providing a learning and working environment that actively promotes and supports the dignity, worth, and human rights of all. The Board strives to create a climate of understanding and mutual respect in accordance with the *Ontario Human Rights Code, the Ontario Health and Safety Act* and *Canadian Charter of Rights and Freedoms*.

This Regulation applies to all members of the Greater Essex County District School Board's community including, but not limited to, students, staff, trustees, contractors, parents/guardians, volunteers, permit holders and all other persons who are invited to or who work on Board property. This procedure also covers harassment and/or discrimination by such persons when engaged in a Board-related activity or undertaking, even if off Board property.

> *The working and learning environment is any place where employees perform work or work-related duties and functions. Schools and school-related activities, such as extracurricular activities and excursions, comprise this environment. Conferences and training sessions fall within the ambit of this policy and regulation, as does the Board's courier system, fax, e-mail, phones, mailboxes and all forms of electronic communications.*

This Regulation has been developed in keeping with *the Canadian Charter of Rights and Freedoms* , the Ontario *Human Rights Code and the Ontario Health and Safety Act*. **The protected grounds are age, ancestry, citizenship, colour, creed, disability, ethnic origin, family status, gender identity, gender expression, marital status, place of origin, race, receipt of public assistance*, record of offences, sex and sexual orientation.**
*only with respect to housing / accommodation

1.1 All students, staff and community members of the Greater Essex County District School Board have the right to learn and work in an environment that is free from harassment and discrimination based on the protected grounds. (See Appendix A)

1.2 All complaints of harassment and discrimination must be taken seriously and dealt with according to the Human Rights Policy and Regulations. It is important to note that harassment does not include the appropriate exercise of supervisory, evaluation or operational responsibilities, including training, direction, instruction, counselling and discipline.

1.3 Each person who uses the Human Rights Policy to lodge a complaint in good faith may exercise that right without threat or fear of reprisal. No sanction, discipline, reprisal or threat of reprisal shall be made against a person who uses the Human

Rights Policy to make a complaint in good faith or who gives evidence or otherwise co-operates with the investigation of the complaint. For example, students may feel vulnerable when lodging a complaint and as such may require additional consideration and protection by those responsible for handling a complaint.

1.4 When a complaint is lodged, a spirit of fairness to both parties must guide the actions taken. Both parties have a right to a fair and impartial investigation. The Respondent (the person against whom the complaint is filed) has a right to know the allegations and who made them.

1.5 It is the primary intention of the complaint procedure to stop harassment as soon as possible after an incident occurs. The complaint procedure is intended to be remedial rather than punitive in nature as well as flexible and may include a range of corrective action(s).

1.6 There is an expectation that written complaints will be made as soon as possible but not later than six (6) months after the offending incident(s) unless a delay was justified because of extenuating circumstances and would not result in substantial prejudice to anyone.

1.7 Respondents who choose to respond to the allegations must complete and return their response to the Superintendent of Human Resources (or designate) within ten (10) working days of receipt of the complaint or as determined by an extension granted by Human Resources.

1.8 Confidentiality must be maintained to the greatest extent possible.

1.9 It is the responsibility of the Board to administer and disseminate the Human Rights Policy and Regulation throughout the Board. All students, staff, trustees, and volunteers are to have an awareness of the Human Rights Policy and its Regulation, their responsibilities under the Policy, and an understanding of the complaint procedures.

1.10 It must be understood that a Complainant has the right to seek support from, including but not limited to:

i) Anyone in a Position of Responsibility, Manager or Supervisor
ii) Federation or Union President, or Professional Association
iii) GECDSB Equity and Inclusion Officer
iv) The Human Rights Tribunal of Ontario

1.11 There is an obligation to ensure that environments are free from discrimination and harassment. It is not acceptable from a human rights perspective to choose to remain unaware of the potential existence of discrimination or harassment, or to fail to act to address human rights matters, whether or not a complaint has been made.

1.12 All relevant sections of the *Ontario Human Rights Code* apply to the Human Rights Policy and Regulation, including the complaint procedure.

1.13 Nothing in the Human Rights Policy and Regulation, including, in particular, the filing of a complaint under the complaint procedure, shall preclude a person from exercising any rights they otherwise have by law, including, in particular, the filing of an application with the Human Rights Tribunal of Ontario in accordance with the *Human Rights Code* or the filing of a grievance under a collective agreement.

1.14 If there is a determination on a balance of probabilities that a complaint has been filed in bad faith, the complaint process may discontinue and disciplinary action may occur.

2.0 ROLES AND RESPONSIBILITIES

2.1 The Board is responsible for:

i) supporting a working and learning environment that is respectful of human rights and free of discrimination and harassment;
ii) understanding and communicating with members of the community its commitment to this Human Rights Policy and Regulation;
iii) implementing and operationalizing this Human Rights Policy and Regulation; and,
iv) supporting and providing direction in the application of this Human Rights Policy and Regulation.

2.2 The Superintendent of Human Resources is responsible for:

i) providing consultative services to superintendents, principals and managers in managing the Human Rights Policy and Regulation;
ii) conducting a Threshold Assessment to determine if the complaint is best handled under this policy, or if it is a matter better dealt with through other Board processes such as, but not limited to, performance management or professional misconduct, objectionable behaviour, workplace violence, and/or progressive discipline;
iii) conducting investigations, or assisting in the investigation of complaints;
iv) implementing the Human Rights Policy and Regulation;
v) working with Supervisory and Managerial personnel to promote the resolution of human rights issues;
vi) managing formal investigations and mediated resolutions that may arise;
vii) ensuring that human rights issues are resolved in a consistent, impartial, timely and fair manner in accordance with this Regulation; and,
viii) ensuring that a group of resource persons are adequately trained to support this Human Rights Policy and Regulation and to assist those involved in the process.

2.3 Superintendents, Principals and Operational Managers are responsible for:

i) communicating and reviewing this Human Rights Policy and Regulation with the staff they supervise or manage;
ii) formulating, communicating and enforcing work requirements and behavioural expectations;

iii) conducting investigations into formal complaints under the Human Rights Policy and Regulation (see Section 4 “Site Based Complaint Resolution Process”);
iv) mediating or arranging for mediation for resolution of complaints; and,
v) administering progressive, corrective disciplinary action, if required.

2.4 The Equity and Inclusion Officer is responsible for:

i) ensuring that those who are involved in Human Rights issues under this Regulation are well assisted and supported;
ii) assisting schools and administrative departments in their promotion of Human Rights;
iii) educating staff, students and the school community about the Human Rights Policy and Regulation;
iv) informing the appropriate authority of gaps and limitations in Board policies, procedures and practices in Human Rights matters and to recommend an appropriate course of action to rectify the situation;
v) advocating for equality rights and equity policies within the system; and,
vi) tracking data and other information regarding complaints, preparing and presenting appropriate reports.

2.5 All employees are responsible for:

i) being aware of, and sensitive to, issues of discrimination and harassment, and taking proactive steps to encourage human rights and respectful behaviour with students and staff;
ii) demonstrating professional and positive behaviour consistent with individuals who are responsible for the safety, learning and well-being of students and staff;
iii) conducting themselves in a professional manner that meets the accepted standards of practice; and,
iv) co-operating in the investigation of complaints, and working to achieve resolution at the earliest possible stage.

2.6 All students and parents/guardians are responsible for:

i) being aware of, and sensitive to, issues of discrimination and harassment, and taking proactive steps to encourage human rights and respectful behaviour.
ii) demonstrating positive behaviour that meets accepted provincial, school board and individual school codes of conduct; and,
iii) co-operating in the investigation of complaints, and working to achieve resolution at the earliest possible stage.

2.7 Standard of Proof

The standard of proof to be applied is the balance of probabilities. This means that on the evidence and information provided, the occurrence of the event was more likely than not.

2.8 Who May Initiate a Complaint?

Individuals who believe that they are targets of discrimination or harassment based on the protected grounds* may initiate a complaint.

2.9 Request for Information

A request for information and understanding of rights, responsibilities and options to resolution may be made by the Complainant or someone on behalf of the Complainant to the immediate supervisor or Equity and Inclusion Officer.

2.10 Available supports / assistance

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.

3.0 PRELIMINARY STEP TO RESOLUTION

All individuals may opt to forego the preliminary step stage.

3.1 Resolving at Preliminary Step:

i) Inform the individual that the behaviour is discriminatory and/or harassing and must stop immediately.
ii) Many disputes can be resolved quickly and effectively using this approach.
iii) Supervisory and/or Managerial Personnel may attempt to provide support to both parties, if asked, in order to resolve the incident prior to the informal stage of this procedure.

4.0 SITE BASED COMPLAINT RESOLUTION PROCESS

4.1 Informal Resolution Process

Informal resolution is a process that provides an opportunity for parties to resolve a dispute mutually in a respectful manner. Employees may first attempt Informal Resolution as a means of resolving issues.

At any time during the Informal Resolution process, the Complainant and the Respondent may mutually agree to drop the complaint.

Any individual who believes that they have been harassed or discriminated against may:

i) attempt to resolve the issue by directly approaching the person(s) involved, stating clearly that the behaviour or actions are objectionable and must be stopped; and/or
ii) if, having chosen to approach the person(s) involved, the Complainant finds that the behaviour does not stop or that the behaviour escalates; and/or

iii) if the individual does not wish to address the person(s) involved directly, they may contact their Supervisor or the Equity and Inclusion Officer.

Note: If the complaint is against a supervisor, the person to whom the supervisor reports should be contacted.

Student Complainants should contact their principal, vice-principal or any school personnel directly. The school has an obligatory duty to assist the student in reporting the complaint. If other persons are approached, contact with the school administration should be made on the student's behalf by another individual such as a parent/guardian, teacher, other supportive adult in the school, or another student.

Where a site based resolution has been resolved informally, there is no formal report(s) about such dispute(s). Every effort will be made to protect the privacy of individuals.

4.2 Formal Resolution Process

Any complaint that was not resolved during the Preliminary and/or Informal Resolution Process, must proceed with the formal complaint process.

i) complete the "Human Rights Initial Complaint Form" (Appendix A);
ii) send the completed form to the Equity & Inclusive Officer; and
iii) participate in a Threshold Assessment.

4.2.1 Threshold Assessment

Upon receiving a "Human Rights Initial Complaint Form" the Equity and Inclusion Officer will conduct a Threshold Assessment to determine the viability of the complaint.

If the Equity and Inclusion Officer determines:

1. that if the alleged conduct is true, it would not meet the definition of discrimination or harassment and/or is vexatious, frivolous or trivial, has not been made in good faith or would, if investigated, constitute an abuse of the procedure then the Complainant and Respondent shall be advised and no further action will be taken under this regulation.
2. that the formal complaint should proceed, an appropriate investigator will be appointed to take action to move toward a resolution.

4.2.2 Complaint Investigation Process

The appointed investigator will conduct a formal investigation that may include, but is not limited to:

1. Interviewing of the Complainant and Respondent;
2. Interviewing of witnesses (names of witnesses will remain as confidential as possible);

3. Examination of relevant material which may include files and records; and,
4. Presentation of facts in a Formal Report to the Superintendent of Human Resources or their designate for a final decision within thirty working days.

4.3 Managerial Procedures for Dealing with a Complaint

Supervisory and managerial personnel may become aware of discrimination or harassment in the workplace or learning environment in different ways. They may observe discrimination or harassment directly or receive a report from the individual affected. The Human Rights Policy and Regulation require that those who are covered by the policy report immediately alleged occurrences of discrimination and harassment. Consequently, supervisory and managerial personnel must consider reports from third parties including community partners.

Supervisory and managerial personnel have a duty to respond to and take action to resolve any alleged or suspected situations involving discrimination and harassment in a timely manner. A resolution of a complaint can prevent further negative consequences while promoting the restoration of a healthy learning or workplace environment.

See Also: R-AD-48 Appendix A: Definitions and Terms of Reference

R-AD-48 Appendix B: Human Rights Initial Complaint Form