

**EDMONTON PUBLIC SCHOOLS**

September 11, 2001

TO: Board of Trustees

FROM: Trustee G. Gibeault, Planning and Policy Committee  
Trustee S. Hansen, Planning and Policy Committee  
Trustee J. Melnychuk, Planning and Policy Committee

SUBJECT: Policy Regarding Discrimination and Harassment

ORIGINATOR: A. McBeath, Acting Superintendent of Schools

RESOURCE  
STAFF: Karen Bardy, Gloria Chalmers, Bob Holt, Faye Parker

**RECOMMENDATION**

That Policy ACA.BP Discrimination and Sexual Harassment be rescinded and replaced by a new policy ACA.BP Discrimination and Harassment (Appendix I).

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In May 2000, the administration brought a report to board that presented a new brochure and booklet on discrimination and harassment. These were developed by a joint committee of the administration and CUPE Locals 3550, 474 and 784 as a result of letters of intent in the collective agreements with the three CUPE Locals. In this report, the administration indicated its intent to review the board policy and administrative regulation in order to make them consistent with the communication documents.

During 2000-2001, the administration has studied the policies of other public organizations and has worked with an external consultant with expertise in the design of policy, procedures and training programs related to discrimination and harassment in the workplace.

This report presents a proposed new policy (Appendix I) and recommends rescission of the current policy (Appendix II). As well, a copy of a draft administrative regulation (Appendix III) is provided. If the new policy is approved, the administration would recommend to the superintendent to rescind the existing administrative regulation and approve this draft. Prior to this, Superintendent's Council will be given an opportunity to react to the draft administrative regulation.

The proposed new policy is broader in scope than the current one, in that it refers to discrimination and harassment rather than discrimination and sexual harassment. It also indicates the board's desire to protect its staff from harassment by persons external to the district. This is an important point for all of the staff groups.

Because the district's staff groups were so instrumental in the preparation of the brochure and booklet, their involvement was also critical to the revision of the policy and administrative regulation. Therefore, a committee consisting of members of the administration as well as the presidents of the CUPE Locals, the Executive Secretary of the Edmonton Public Local of the ATA and an exempt staff representative was formed to assist in the development of the draft policy and regulation. This committee has reviewed and provided input into several drafts.

The recommended policy refers to the desired environment for all those who work and learn in Edmonton Public Schools. The draft administrative regulation, however, is specific to staff and applies only to interactions between and among staff members. This is because discrimination and harassment between and among students are subject to district and school policy related to student behaviour and conduct. Discrimination and harassment towards students on the part of staff would be viewed as a breach of trust or professional ethics, and could also involve legal action. The actions of individuals external to the district are not subject to district regulations. Legal avenues are available for the board to deal with instances of discrimination or harassment on the part of such individuals.

GC/FP:dh

APPENDIX I: Draft Policy ACA.BP Discrimination and Harassment

APPENDIX II: Current Policy ACA.BP Discrimination and Sexual Harassment

APPENDIX III: Draft Administrative Regulation ACA.AR Discrimination and Harassment

CODE: ACA.BP  
TOPIC: Discrimination and Harassment

EFFECTIVE DATE: **DRAFT**  
ISSUE DATE:  
REVIEW DATE:

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Edmonton Public Schools is committed to providing and to promoting a learning and working environment for all persons that is free from discrimination and harassment.

Behaviour which constitutes discrimination or harassment shall not be tolerated.

A staff member or student who subjects any other person to discrimination or harassment shall be subject to disciplinary action as deemed to be appropriate, including dismissal from employment or expulsion from school.

The Board shall take appropriate action against others who subject Edmonton Public Schools students, staff or representatives of the Board to discrimination or harassment.

References: Canadian Charter of Rights and Freedoms  
Alberta Human Rights, Citizenship and Multiculturalism Act  
Board Policy AB.BP – Appeals, Administrative Regulation AB.AR  
Board Policy GKA.BP – Teacher Terminations

CODE: ACA.BP

TOPIC: Discrimination and Sexual Harassment

EFFECTIVE DATE: 27-02-1996

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Within Edmonton Public Schools, individuals have the right to an environment free of discrimination and sexual harassment as set down in the Canadian Charter of Rights and Freedoms and the (Alberta) Individual's Rights Protection Act.

Conduct or behavior which constitutes discrimination or sexual harassment shall not be tolerated.

District procedures and practices shall:

- Promote an environment free of discrimination;
- provide for a reasonable degree of confidentiality; and
- provide mechanisms for making and responding in a timely fashion to complaints of discrimination and sexual harassment.

Reference(s): Canadian Charter of Rights and Freedoms; Individual's Rights Protection Act; [ACA.AR](#) – Harassment

CODE: ACA.AR

EFFECTIVE DATE: DRAFT

TOPIC: Discrimination And Harassment

ISSUE DATE: \_\_\_\_\_

REVIEW DATE: \_\_\_\_\_

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**A. General**

1. This regulation applies to cases of discrimination and harassment between and among staff members.

**B. Informed About Options**

1. All staff members shall be provided with information and access to district publications about harassment and discrimination. This information shall also be provided to new staff members at the time they are hired.
2. Complainants, Respondents and Persons in authority who are involved in complaint resolution processes shall be provided with information regarding:
  - (a) this policy and regulation
  - (b) counselling, support, sick leave benefits, and advisor services provided by and through EPS
  - (c) the right of the Complainant and the Respondent to be accompanied by a union or association representative or another individual
  - (d) the right of the Complainant to withdraw from any further action in connection with the complaint at any stage in the process
  - (e) alternative routes for addressing the complaint
3. At any time in the informal or formal complaint process, mediation is an option for the Complainant and Respondent.
4. Both the Complainant and Respondent have the right to seek representation from a union or professional organization, or another individual at any time in the informal or formal process at no cost to the district.
5. The Complainant and the Respondent are encouraged to co-operate with the investigation and resolution of the complaint.

**C. Definitions**

1. **Discrimination** means adverse treatment based on race, religious beliefs, colour, gender, physical disability, sexual orientation, developmental disability, marital status, age, ancestry, place of origin, family status, or source of income of that person or any other person.

2. **Harassment** is conduct that disparages, humiliates or harms another person. It may involve abuse of authority, but does not include the legitimate exercise of an individual's supervisory or administrative authority.
3. **Sexual Harassment** means harassment with a sexual component or based on gender.
4. **Prohibited Behaviour** means Discrimination, Harassment or Sexual Harassment.
5. **Informal Complaint** is a complaint to a person in authority who acts to resolve the situation by intervening on the Complainant's behalf.
6. **Formal Complaint** is documented and requires a written statement to be filed with Personnel Services within six months of the incident.
7. **Complainant** means the individual who makes a complaint.
8. **Respondent** means the individual who the complainant alleges has committed a Prohibited Behaviour.

#### **D. Confidentiality and Privacy of Information**

1. All persons are encouraged to treat information pertaining to a harassment situation with discretion.
2. Reasonable efforts shall be made by EPS to respect the confidential nature of a complaint made under these regulations. Information collected and retained as part of an investigation may be subject to release as part of a legal process.
3. To respect the requirements of legislation, and the requirement that the process be fair to all parties, the following general principles will guide the release by EPS of written information:

##### *General principles of entitlement to information*

- A Complainant and a Respondent have a right to their own personal information.
- A Complainant and a Respondent have a right to see written statements, information or reports related to the complaint process.
- Individuals referred to in a written statement, information or report have the right to know what has been said about them, and by whom.

##### *Exceptions to the entitlement to information*

- A Complainant or a Respondent do not have the right to see personal information about each other or about a third party that is not directly related to the complaint.
- Where the Superintendent or delegate (including the investigator)
  - (a) Determines, in accordance with the *Freedom of Information and Protection of Privacy Act*, that disclosure of personal information will constitute an unreasonable invasion of a third party's personal privacy, or
  - (b) Reasonably believes that disclosure of information will imperil the safety of an involved individual, such information shall not be disclosed.

### **E. Direct Action**

1. Individuals who experience perceived Prohibited Behaviour are strongly encouraged to take direct action by communicating with the Respondent at the earliest time possible.
2. If verbal communication is not possible, the potential Complainant may then choose to communicate dissatisfaction or concern to the Respondent in writing.
3. Persons using this process should keep a record of all the incidents and the way in which they were handled. This record will help the accurate reflection of events and how they were managed over time.

### **F. Informal Complaint**

1. If the Complainant is unable to take direct action or the Prohibited Behaviour continues, the Complainant should make an Informal Complaint by involving a person in authority as listed below:
  - supervisor
  - respondent's supervisor
  - trusted person in authority
  - principal or an administrator
2. The person in authority shall act to resolve the situation by intervening on the Complainant's behalf, by arranging for the Respondent and Complainant to come together to resolve the complaint, or by advising the Complainant of other options.
3. If this does not successfully resolve the issue, the Complainant may choose to initiate a Formal Complaint. It is not necessary to initiate an Informal Complaint before filing a Formal Complaint. If a Formal Complaint is initiated, it supersedes an Informal Complaint.
4. At any time after the initiation of an informal complaint, the Complainant may request that no further action be taken. This does not preclude the Complainant from pursuing the complaint at a future time, subject to identified time limits.

### **G. Formal Complaint**

1. A Formal Complaint must be filed within 1 year of the incident and should be filed in writing with the Director of Personnel Support Services. Under exceptional circumstances, the Superintendent may accept a complaint filed more than 1 year after the incident.
2. The Director of Personnel Support Services shall inform forthwith the Superintendent, the Respondent, and the supervisors of the Complainant and Respondent about the Formal Complaint.
3. An investigator shall be arranged by Personnel Services. The district will make every effort to find a mutually acceptable investigator but if this is not possible, the superintendent will appoint an investigator to ensure that the process is implemented.

4. An investigator shall attempt to resolve the complaint through conciliation or mediation. If conciliation or meditation is not successful within thirty days from the date of appointment of the investigator, or alternatively if either the Complainant or Respondent does not wish to participate in conciliation or mediation, then the matter shall be investigated.

## **H. Investigation**

1. The investigator shall request a detailed written statement from the Complainant. Should the Complainant prefer, the investigator shall interview the Complainant.
2. If the Complainant provides a written statement, the investigator will follow up with an interview of the Complainant.
3. The investigator shall provide the Respondent with the Complainant's written statement and/or written summary of the interview. The Respondent shall be invited to make a written response, or if the Respondent prefers, to respond orally to the investigator. Conversely, the Complainant shall be provided with the Respondent's written statement and/or written summary of the interview and have an opportunity to respond orally or in writing to the investigator.
4. The investigator shall interview the Complainant and Respondent as necessary.
5. The investigator shall interview any other persons and gather such other materials as may be necessary for the investigator to conclude the investigation.
6. The investigator shall produce a report of fact relating to the complaint made.
7. In accordance with Section D, the investigator's report shall be provided to the Superintendent, the Complainant, the Respondent, and the Director of Personnel Support Services, within 60 days of the filing of the formal complaint. The Superintendent may extend the timeline for the submission of the report. The Complainant and Respondent may then submit a response in writing to the Superintendent.

## **I. Consequences**

1. (a) If the Superintendent concludes that Prohibited Behaviour has been committed, a range of sanctions may be imposed as deemed appropriate by the Superintendent. For serious or repeat Prohibited Behaviours, the appropriate sanction may be dismissal. Information regarding the decision and disciplinary action shall be placed in the Respondent's personnel file.  
  
(b) If the Respondent is a teacher and the Superintendent decides that suspension or dismissal is warranted, then the Superintendent will make this recommendation to the Board of Trustees.
2. If the Superintendent concludes that an intentionally false allegation of Prohibited Behaviour has been made, a range of sanctions may be imposed as deemed appropriate by the Superintendent. For serious or repeat Prohibited Behaviours, the appropriate sanction may be dismissal.



3. If the Superintendent concludes that the Formal Complaint is unfounded, documentation is not included in the Personnel file of the Respondent. However, the Respondent may request to have some information placed on his or her own file.
4. Whether the complaint is upheld or not, no documentation will be placed on the Complainant's Personnel file where the complaint is filed in good faith. However, the Complainant may request to have some information placed on his or her own file.

#### **J. Retaliation**

1. Retaliation against an individual making a complaint or providing information to an investigator pursuant to a complaint is considered to be harassment.

#### **References:**

Board Policy AB.BP – Appeals, Administrative Regulation AB.AR  
Board Policy GKA.BP –Teacher Terminations