

# Toronto District School Board

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Operational Procedure PR515

Title: **HUMAN RIGHTS AND CODE-BASED WORKPLACE HARASSMENT**

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Effected: June 29, 2001  
Revised: October 24, 2017, December 10, 2019, December 11, 2020, June 21, 2022, **February 18, 2025**  
Reviewed: October 24, 2017, December 10, 2019, December 11, 2020, June 21, 2022, **February 18, 2025**  
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## 1.0 RATIONALE

The Toronto District School Board (“TDSB” or “the Board”), is committed to providing an equitable, safe, nurturing, positive learning and working environment, free of harassment, discrimination, and Human Rights Code-based workplace harassment (Code-based workplace harassment), where every individual is treated with dignity and respect.

The Human Rights and Code-Based Workplace Harassment Procedure (PR515) (the “Procedure”) supports the implementation of the Human Rights Policy (P031).

This Procedure fulfills the Board’s obligations to address Human Rights complaints of harassment, discrimination and Code-based workplace harassment in accordance with the Ontario *Human Rights Code* (the *Code*) and the *Occupational Health and Safety Act* (OHSA).

## 2.0 OBJECTIVE

To provide information and instruction, to prevent and, where necessary, address incidents or complaints of harassment, discrimination, and Code-based workplace harassment, pursuant to the Human Rights Policy (P031).

All parties involved in a matter under this Procedure, including staff, management, union/federation/association, and the Human Rights Office (HRO) must endeavour to prevent and address harassment, discrimination and Code-based workplace harassment.

### **3.0 DEFINITIONS**

**Unless otherwise stated, this Procedure adopts the same definitions as the Human Rights Policy (P031).**

*Balance of Probabilities* is the standard of proof which is satisfied where a proposition is reasonable, more probable than not and more probable than any other proposition based on all the evidence.

*Complainant* is anyone who makes a complaint under the Human Rights Policy (P031), alleging that harassment, discrimination, or Code-based workplace harassment has occurred.

*Mediation* is a confidential voluntary process that parties to a complaint may agree to participate in, whereby a neutral facilitator is in communication between the parties to a complaint, in an effort to effect an agreed upon resolution.

*Respondent* is anyone who has a complaint made against them under the Human Rights Policy, alleging that harassment, discrimination or Code-based workplace harassment has occurred.

*Human Rights Code-Based Workplace Harassment or Code-Based workplace harassment* is engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome and is based on a prohibited ground under the Human Rights Policy (P031) or the Ontario *Human Rights Code* and includes workplace sexual harassment.

*Workplace Sexual Harassment* is engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity, or gender expression where the course of comment or conduct is known or ought reasonably to be known to be unwelcome or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

### **4.0 RESPONSIBILITY**

System Lead, Human Rights

### **5.0 APPLICATION AND SCOPE**

This Procedure applies to all employees of TDSB. The Procedure addresses incidents or complaints of harassment and discrimination. It also applies to Code-

based workplace harassment from all sources including volunteers, students, trustees as well as members of the public.

Furthermore, the Procedure applies to student human rights complaints against school administrators that have not been addressed at the school level or by the superintendent (see section 6.4 of PR515 for further detail).

## **6.0 PROCEDURES**

### **6.1 Voluntary Early Resolution Process**

Anyone within the scope of this Procedure who has a concern regarding potential harassment, discrimination or Code-based workplace harassment may attempt the following before filing a complaint.

i) If possible and practical, make it known to the person who is causing the offense, that their behaviour is unwelcome and ask that the offensive behaviour stop. If approached in this manner, it is expected that the individuals will reasonably work with each other to make all reasonable efforts to resolve the matter.

ii) If an individual is not comfortable approaching the person causing offense or an individual is approached and the behaviour does not stop, the individual may consider trying to resolve the issue with the support of their direct supervisor/manager or school principal. If the person engaging in the alleged conduct is the direct supervisor/manager, the individual may go to management at the next level.

These early resolution steps are optional as individuals may not feel comfortable or safe in attempting early resolution. Bringing concerns forward immediately, where possible, will permit the matter to be addressed quickly. If an individual is unable to resolve matters by voluntary early resolution options or chooses to bypass them, a complaint can be filed through submission of Human Rights Complaint Form, 515A ("Complaint Form").

An individual covered by this Procedure may also:

- (a) Seek advice and support from their union/federation/association/network representative (where applicable);
- (b) Contact the HRO to consult, even if there is no intent to file a complaint;
- (c) Any eligible employee is entitled to utilize the TDSB Employee and Family Assistance Program (EFAP) in connection with any matter covered by this Procedure.

## **6.2 Other Proceedings**

Nothing in this Procedure should prevent or discourage an individual from taking advantage of any other form of proceeding to address their concerns, such as filing an application with the applicable human rights authority or a grievance where eligible or accessing any other legal avenues available to them.

The HRO, in consultation with the Executive Officer, People and Culture (or designate), may postpone, suspend, or cancel any process/investigation regarding a complaint if the continuance of the process/investigation would duplicate or prejudice another proceeding. In coming to a decision these factors will be considered:

- (a) The Board's responsibility to resolve harassment, discrimination, and Code-based workplace harassment complaints;
- (b) The recognition that grievances may be filed simultaneously with complaints in order to comply with timelines. In such cases one matter may be held in abeyance until the other process is complete, as determined in consultation with People and Culture and with agreement from the union/association/federation/network as it pertains to grievances; and/or;
- (c) Other legal procedures that may be initiated to protect statutory rights, e.g., an application before the Human Rights Tribunal of Ontario (HRTO).

The HRO may also determine that the matter complained of has already been dealt with through another forum (e.g., grievance/arbitration, People and Culture disciplinary process). In such cases, the complainant will be advised of this by the HRO, and the file will be closed.

In all such cases the complainant will be advised of the decision to postpone, suspend, cancel or hold in abeyance their complaint and the reasons why.

## **6.3 Support Person for Complainants, Respondents and Witnesses**

- (a) Prior to initiating a complaint and throughout the complaints process complainants, respondents and witnesses have a right to assistance from a support person. A support person may include a:
  - Colleague
  - Family Member

- Union/Federation/Association/Network Representative (in accordance with the practices/policies of the respective organization)
  - Joint Health & Safety Committee Representative
  - Parent, Guardian or Caregiver
  - School Support Staff
  - Student
  - Teacher
  - Translator/Interpreter
- (b) All persons acting as a support person within the scope of these procedures must keep any information regarding the complaint confidential in accordance with the Board's Protection of Privacy Policy. Support persons may be required to sign a confidentiality agreement when attending investigation interviews.
- (c) The role of the support person is to be available to a party to an investigation to provide assurance, console, and/or general emotional support, translation/interpretation or advice. Unions/associations/federation/network representatives may act as a support person to their members in this capacity. However, no support person will or attempt to hinder or interfere with an investigation being conducted, for example, answering questions on behalf of the interviewee, or otherwise deterring the fact-finding process. The investigator reserves the right to discontinue any investigation interview whereby any party to a complaint or the support person is uncooperative.
- (d) Investigation participants (complainants, respondents and witnesses) and support persons who are staff of the Board, are permitted time away from work with pay, providing the appropriate arrangements (including supervisory/management approval) are made with their direct Supervisor or next level management, if the Supervisor is the subject of the complaint. These arrangements should be made by staff and may involve the support of their union/association/federation/network representative, as required.

#### **6.4 Complaint Process**

##### **(a) Filing Complaints**

###### *Employees*

- Employee incidents or complaints of alleged harassment, discrimination or Code-based workplace harassment should be made to an immediate supervisor, or the HRO. Reports can be made verbally initially; however, the Complaint Form (Appendix A – Form 515A) needs to be submitted to the HRO. The completed Complaint Form (Appendix A – Form 515A) can be sent to the [HumanRightsOffice@tdsb.on.ca](mailto:HumanRightsOffice@tdsb.on.ca)

### *Students*

- Student complaints of alleged harassment or discrimination should be reported to the school administrator and will be addressed through the appropriate school policy or procedure, such as the Caring and Safe Schools Policy (P051), Bullying Prevention and Intervention Procedure (PR703), Sexual Misconduct by Students Procedure (PR608) and Parent Concern Protocol (PR505).
- Student complaints against the school administration should be reported to and will be addressed by the superintendent and if not addressed, can be forwarded to the HRO. The complaint will be addressed through the appropriate school policy or procedure. In cases of systemic concerns, the matter may be referred to an external investigator. The HRO will review any student complaints against school administrators to determine if the matter has been dealt with in another forum in accordance with section 6.2 of this Procedure.

### *Human Rights Office*

- Incidents or complaints of harassment, discrimination or Code-based workplace harassment against the HRO will be forwarded to the Human Rights, System Lead.

### *Trustees*

- Incidents or complaints against a Trustee alleging harassment, discrimination or Code-based workplace harassment will be submitted in accordance with the Board Member Code of Conduct (P075) and related procedures.

### *Executives*

- Incidents or complaints against a Board Executive, alleging harassment, discrimination or Code-based workplace harassment will be forwarded to the Director of Education, who will seek advisement from the Board's Executive Officer, Legal Services in engaging the services of an external investigator, as deemed appropriate.

### *Director of Education*

- Incidents or complaints against the Director of Education, alleging harassment, discrimination or Code-based workplace harassment will be forwarded to the Chair of the Board, who will seek advisement from the Board's Executive Officer, Legal Services in engaging the services of an external investigator, as deemed appropriate.

*Members of the public*

- Incidents/complaints of alleged harassment, discrimination or Code-based workplace harassment against a member of the public by Board staff will be forwarded to the immediate supervisor of the affected area the Respondent was working or participating in at the time of the alleged incident, or the HRO.

All staff responsible for receiving complaints of harassment, discrimination or Code-based workplace harassment under this Procedure must be aware of the procedures for responding to a complaint. They may also consult with the HRO regarding appropriate next steps, if required.

### **6.5 Managerial Response to an Incident or Complaint of Harassment, Discrimination or Code-Based workplace harassment**

- (a) Supervisory/managerial staff may become aware of incidents of harassment, discrimination or Code-based workplace harassment in the working or learning environment. They may observe it directly or receive a report from the individual affected. They may even hear about it from a third party. It is important that supervisory/managerial staff also pay attention to symptoms of possible harassment, discrimination or Code-based workplace harassment (e.g., decreased productivity, absenteeism), and intervene as needed.
- (b) In all cases, supervisory/ managerial staff have a duty to respond to and take action to resolve any alleged or suspected incidents or complaints involving harassment, discrimination or Code-based workplace harassment.

The *OHSA* requires that any incident or complaint of Code-based workplace harassment involve an investigation deemed appropriate in the circumstances.

- (c) When an incident or complaint of harassment, discrimination or Code-based workplace harassment comes to the attention of managerial/supervisory staff they need to consider the well-being of the parties involved, document any pertinent information provided and advise that the matter is taken seriously, will be looked into and they will get back to them regarding next steps (generally, within 7 days).
- (d) Harassment, discrimination or Code-based workplace harassment complaints may be investigated by supervisory/managerial staff depending on the complexity of the matter and nature of the allegations. Supervisory/managerial staff should consult with the HRO to make that determination and for support during the investigation.

- (e) If supervisory/managerial staff conduct an investigation, it should be done in accordance with this Procedure.

## **6.6 HRO Response to an Incident / Complaint of Harassment, Discrimination or Code-based Workplace Harassment**

- (a) The HRO is neutral and unbiased and is a resource for all covered under this Procedure.
- (b) The HRO will address multiple proceedings and related matters as noted in section 6.2 of this Procedure.
- (c) The HRO will conduct a preliminary assessment of the contents of the Complaint Form and determine next steps. Specifically, a determination will be made as to whether the matters set out in the Complaint Form, if true, would violate the Human Rights Policy (P031). If so, then the complaints resolution process set out in this Procedure can be used. If not, the HRO will communicate with the individual that the matter will not be proceeding under this Procedure, along with the corresponding reason.
- (d) The HRO will retain carriage of the complaint that passes the preliminary assessment and will assign it to an investigator (e.g., HRO investigator, appropriate Supervisory or Managerial staff, or in some cases an external third-party investigator). Investigations may be conducted by a supervisor/manager who is not involved in the matters being investigated.

External investigators may be used for various reasons, including but not limited to the complexity or size of a complaint/investigation; availability of internal resources etc.

In certain circumstances, the HRO may determine that the matter is more appropriately investigated by an investigation team.

- (e) The HRO may refer the matter to other departments to access alternative processes, if applicable, such as those governed by the Workplace Harassment Prevention for Non-Code Workplace Harassment Policy (P034), or the Workplace Violence Prevention Policy (P072). The complainant will be notified.
- (f) The HRO may recommend Mediation in cases where parties are employees and as deemed appropriate in the circumstances. (See Section 6.8 c for further details)



- (g) The HRO has discretion to limit the scope and number of allegations in any complaint due to duplication of information or to streamline the complaint, without loss of any substantive information.
- (h) Anonymous complaints against an individual or group will be treated in a manner deemed appropriate in the circumstances by the HRO, including exploring other alternatives to address the matter, including, but not limited to, generalized training for staff, or feedback provided to the individual/group. This will be done in consultation with People and Culture and/or management of the affected area. No formal summary in writing will be provided to any party to an anonymous complaint.
- (i) Group complaints are very challenging situations for all involved. Individuals with concerns under this Procedure should submit their concerns separately. This is in no way to limit any employees from coming forward with concerns. In situations involving multiple parties to a complaint, employees are encouraged to confidentially speak with their respective union/association/federation/network representative or contact the HRO and encourage others with concerns to individually do the same.
- (j) In some cases, the HRO may determine that no further action is required.

## **6.7 Investigations – Preliminary Considerations**

### **(a) Responsibility**

Supervisory/Managerial staff investigating a matter under this procedure, has responsibility for ensuring they are following this Procedure and are appropriately trained to investigate the matter. Please contact the HRO for advice as needed.

All investigations will be conducted in accordance with this Procedure. Slight variations in process may be acceptable, as deemed appropriate by the HRO.

The person conducting the investigation, whether internal or external to the workplace, must not be directly involved in the alleged incident(s) or complaint(s) of harassment, discrimination, or Code-based workplace harassment, and must not be under the direct control of the alleged harasser, in accordance with the OHSA.

### **(b) Confidentiality**

To protect the interests and privacy of the complainant, the respondent, witnesses and any others who may be involved in a matter addressed under this Procedure, confidentiality, in accordance with the provisions of

the *Municipal Freedom of Information and Privacy Protection Act* and the Freedom of Information and Protection of Privacy Policy (P094), will be required and maintained throughout the process to the fullest extent practicable and appropriate under the circumstances.

Any person reporting an incident or complaint of harassment, discrimination or Code-based workplace harassment or who participates in a process to resolve a matter under this Procedure (including investigators), must keep that information confidential and not disclose or release to anyone any information about the incident or complaint except to the extent necessary to protect an employee(s) (e.g., safety plan or separation of parties through the Administration/Board Health & Safety office), to address/investigate the incident or complaint (e.g., make arrangements for release time, questioning witnesses etc.), to take corrective action (e.g., consultation with People and Culture regarding appropriate action based on investigation findings), or as otherwise required by law (e.g., Tribunal or other court proceedings), in accordance with the *OHSA*. This extends to details of a complaint (including its existence), meetings about an incident or complaint, identifying information about a person including names of witnesses, contact made with an investigator, etc. This is a continuous obligation that extends beyond employment with the TDSB.

Seeking advice from an employee's own union/association/federation/network or legal representative in addressing harassment, discrimination or Code-based workplace harassment is permitted and may be required by some Collective Agreements and/or Terms and Conditions of Employment. While an employee may seek advisement from their own legal representative, at their own cost, the HRO only recognizes an employee's union/association/federation/network representatives as the employee's legal representative. The HRO will not communicate directly with an employee's lawyer.

The HRO may be required to advise other departments or areas of the Board with regards to the existence of a complaint to avoid a duplication of processes or to implement interim measures. In such cases, only the minimum information required will be provided, as determined by the HRO.

Notwithstanding the above, additional information may be required for legal proceedings with the appropriate request to the HRO.

(c) Time Limit

To conduct a proper investigation, it is critical that matters under this Procedure be reported as soon as possible. Complaints made under these procedures must be made within one (1) year of the date of the alleged incident(s) or the last incident of harassment, discrimination or Code-based workplace harassment in a series of incidents. The HRO may decide not to investigate matters that are reported more than one (1) year after the incident or the last incident in a series of incidents has taken place.

Under rare and extenuating circumstances, the HRO may decide to proceed with a complaint outside of this timeline. The HRO must be satisfied that the delay was incurred in good faith and no substantial prejudice or unfairness will result to any person affected by the delay.

(d) Safety and Separation of parties (Interim Measures) for Employees

It may be necessary to institute interim measures for Employees pending the final disposition of the complaint under this Procedure. Investigators will explore with parties whether there are any immediate concerns for physical safety or whether separation of parties needs to be arranged as an interim measure during the investigation.

Any decision around interim measures such as separation of parties will be made by the supervisory or next level up managerial staff in consultation with People and Culture and will follow the Employee Interim Measures Pending Investigations Procedure (PR743), as appropriate. The appropriate union/federation/association/network will be contacted as deemed appropriate. The Executive Officer and/or appropriate manager of People and Culture or their designate, may also consult the HRO regarding the general nature of the complaint/allegations to assist in their decision-making.

Considerations will include, but are not limited to the following:

- Whether the continued presence of the respondent will impair the complainant's ability to function at school or work;
- Whether the respondent poses a risk to the complainant or others; and/or
- Whether there has been a reprisal, or a real threat of reprisal exists.
- A separation of parties pursuant to this Procedure does not constitute "discipline" or a "transfer" within the meaning of any Collective Agreement or Terms and Conditions of Employment and is not considered to be Reprisal in the meaning of this Procedure.

- Students may only be excluded from their school(s) in accordance with Board procedures governing student behaviour, including the TDSB's Board Code of Conduct (PR585), and the *Education Act*.

(e) Medical or Other leaves

If a complainant or respondent is on medical or other leave at any point during the complaints process (including during an investigation), it is incumbent upon them or their representative (if applicable) to advise the investigator and indicate whether they can participate in the complaint/investigative process while on leave.

For medical leaves, if the party is able to participate in the complaint/investigative process they must provide the HRO or appropriate supervisory/managerial staff with medical documentation advising that the employee is medically fit to participate in the complaint/investigative process while on leave. The party can provide this information to disability management (People and Culture).

If the party to the complaint is not able to participate during any other leave and does not advise the investigator of the leave, the investigator/HRO staff may follow up. The matter may be held in abeyance, or the process may be otherwise delayed, as determined by the investigator/HRO, until the return from leave.

Any medical documentation forwarded to the HRO will be kept secure.

(f) Addressing incidents or complaints of harassment, discrimination or Code-based workplace harassment in the absence of a formal written complaint:

It may come to the Board's attention that there is alleged harassment, discrimination or Code-based workplace harassment where the alleged victim(s) do not wish to or have not come forward. Or a complainant may determine that they do not wish to proceed with a complaint or may withdraw a complaint. In those circumstances, the Board may request a reason for withdrawing a complaint or may determine an investigation deemed appropriate in the circumstances is required in the absence of a formal written complaint, or may initiate an investigation with the intent of determining if harassment, discrimination or Code-based workplace harassment is occurring and stopping it, in order to fulfil the Board's obligation in providing a workplace free of harassment, discrimination or Code-based workplace harassment.

## 6.8 Informal Resolution

### (a) General Principles

Informal resolutions are an important element in addressing alleged harassment, discrimination or Code-based workplace harassment. Informal resolution is a potential alternative after a preliminary assessment has taken place and the HRO determines informal resolution is appropriate in the circumstances.

An informal resolution should be agreed to and signed off on by the parties to the complaint (complainant(s), respondent(s)).

In certain circumstances parties to a complaint or their representatives may request an informal resolution; however, that decision remains with supervisory/managerial staff or the HRO.

### (b) Member to Member Concerns

In cases where members of the same union/association/federation/network are involved in a matter related to this Procedure, the respective union/association/federation/network may wish to work with the parties involved to resolve the matter. Those efforts are encouraged; however, if they are not successful or the matter is deemed to be too complex, the respective union, association, federation, network representative may wish to counsel/assist the member in bringing it forward to their Principal, manager, supervisor or the HRO. It is understood that in some cases this may not be possible due to legal or internal policy/procedural requirements of the respective union, association, federation or network.

### (c) Mediation

Mediation is a voluntary process that involves an unbiased third party acting as a facilitator to resolve the complaint. The mediator should be mutually agreeable to both the complainant(s) and respondent(s).

Mediation and mediated resolutions involve the parties' respective union/association/federation/network representative in accordance with collective agreements. Mediated resolutions must be provided to parties to a complaint in writing and signed off by the parties.

The information obtained during mediation, or any attempted settlement arising from mediation, cannot be introduced as evidence in any subsequent investigation or proceeding.

When mediation is attempted during the course of an investigation and is unsuccessful, the investigation will resume, and the parties will be advised by supervisory/managerial staff or the HRO.

Mediation may not be appropriate in the following circumstances; however, may be evaluated on a case-by-case basis:

- One of the parties is in a position to confer, grant or deny a benefit;
- Students involved in disputes with employees or members of the public, including parents and community members.

The HRO may be consulted when considering a mediator, acceptable to the parties. In no circumstance will a mediator be used who is involved in any capacity in the same learning or working environment/site as the parties except for student peer mediators.

Student-led mediation using trained “peer mediators” may be used to facilitate an informal resolution between students, if acceptable to the parties. Principals shall ensure that any terms agreed to are met.

In all cases of mediated resolution, supervisory/managerial staff are responsible for monitoring the situation to support the resolution.

## **6.9 The Investigation Process**

The following process will be followed to conduct an investigation. All TDSB community members covered by this Procedure are expected to fully participate and provide the investigator with all relevant information.

### **(a) Notifications**

- (i) If an investigation is appropriate, the supervisory or managerial staff or the HRO will notify the complainant and respondent of the decision to proceed with the investigation.
- (ii) All parties to a complaint will be notified, as soon as practical and prior to an investigation interview, as to the existence of the complaint, the allegations, who filed the complaint and who it was filed against (if multiple persons, each person will be advised individually without advising of the other parties named in the complaint).
- (iii) A respondent is entitled to know and have the opportunity to respond to all allegations against them that are under investigation. If an incident or complaint of harassment, discrimination or Code-based workplace harassment is reported to managerial/supervisory

staff or the HRO, in the absence of a formal written complaint/the Complaint Form, the Board may be required to investigate, in which case a general statement of the allegations may be presented to the parties (complainant/respondent).

- (b) The investigator should caution complainants, respondents, and witnesses regarding maintaining confidentiality and not engaging in reprisal or threats of reprisal, and refer them to the Human Rights Policy, P031, and this Procedure.

#### Timelines

- (i) Generally, matters assigned for investigation will be investigated within 90 and up to 150 business days of being assigned, depending on the availability of parties to the complaint and witnesses, complexity of the matter, number of parties, nature of allegations, time of year the complaint is received (e.g., summer for school-based complaints) etc. Any delays in timelines will be communicated to complainants and respondents including the reasons for the delay.
- (ii) While the process may begin for complaints received in May/June or throughout the summer for school-based complaints, ultimately the complaint may be held in abeyance until the following September due to the lack of availability of school-based staff, representatives etc. during that time. In such cases, the HRO/Supervisory staff will advise the parties as soon as practical.

#### (c) Investigation – The Fact-finding Process

- (i) When parties to a complaint are invited to an investigation interview, they need to be advised that they may bring a representative/support person. Some Collective Agreements require that a Respondent must have representation.

Investigators will confirm with the interviewee in advance of the interview, who their support person will be (if any), to ensure there is no conflict of interest with their choice. The investigator will determine if there is a conflict of interest with the choice of support person/representative.

- (ii) In most circumstances it is appropriate to interview the complainant first, followed by the respondent. Parties will be asked for witnesses who may have relevant information and any relevant witnesses should be interviewed (separately), as determined by the investigator.

- (iii) An investigator conducting an investigation under this Procedure has authority to access documents or materials (e.g., emails, texts, video footage) relevant to the complaint. This does not include legally privileged documents or documents otherwise protected from disclosure (e.g., information regarding juvenile criminal records).
- (iv) The investigator will consider all of the evidence gathered and determine whether or not an incident(s) of alleged harassment, discrimination or Code-based workplace harassment took place and whether it amounts to a breach of the Human Rights Policy (P031), using the standard of proof called the “balance of probabilities.”
- (v) Potential investigation outcomes are as follows:
  - An investigation may determine that, on a balance of probabilities:
    - i. an alleged incident(s) took place; however, upon investigation did not amount to harassment, discrimination or Code-based workplace harassment;
    - ii. an alleged incident(s) took place and amounts to harassment, discrimination or Code-based workplace harassment;
    - iii. there is insufficient evidence to conclude whether an incident(s) took place, and consequently whether or not harassment, discrimination or Code-based workplace harassment occurred;
    - iv. the incident(s) did not take place and there is no finding of harassment, discrimination or Code-based workplace harassment;
  - An investigation may determine that the complaint is vexatious/frivolous.
- (vi) The investigator must create a document that sets out the findings of fact in relation to the allegations that were investigated, any conclusions reached, and reasons for those conclusions. If the HRO has carriage of the matter, the investigator will send this document to the HRO prior to communicating the results of the investigation to the parties.

(d) Communicating the Results of the Investigation

- (i) The complainant and respondent must be informed of the following in writing (the “Investigation Findings Letter”):



- The investigator's conclusions, including an explanation as to why the conduct in issue breaches or does not breach the Human Rights Policy (P031); and.
- Who will follow-up with the respective parties regarding the actions taken/to be taken because of the investigation findings.

(ii) The Investigation Findings Letter will also be forwarded to the next level supervisor/manager for the complainant and respondent or supervisory/managerial staff responsible for determining/implementing any actions required, and to the HRO if the HRO has carriage of the matter, along with any recommendations for the supervisor/manager to follow-up with People and Culture if findings are made or other specific follow-up is required.

(e) Following the Investigation

(i) Determination of Disciplinary/Remedial Action

Upon receipt of the Investigation Findings Letter, supervisory/managerial staff must make a determination (in consultation with People and Culture), as to whether any disciplinary or remedial action is required.

(ii) Notification of Action to be Taken

In accordance with the *OHSA*, the complainant and respondent will be advised of the outcome of the investigation and any corrective action to be taken because of the investigation. This should be done as soon as practicable by the responsible supervisor/manager receiving the investigation Findings Letter. Information shared with complainants regarding actions taken with a respondent should not specify the exact discipline; however, should note if formal corrective action has been or will be taken, as well as measures put in place to prevent the matter from taking place again.

(iii) Investigation Action Plans

Any action (disciplinary or remedial etc.) that will be taken by supervisory/managerial staff as a result of the findings of an investigation where the HRO had carriage of the matter, must be outlined (in consultation with People and Culture) by the supervisor/manager on the Action Plan Template sent by the HRO, signed, and sent back to the HRO as soon as practicable. The supervisory/managerial staff will monitor and follow up as needed on the Action Plan.

## 6.10 Potential Disciplinary and Remedial Action

### (a) Potential Disciplinary Action

#### *Student Respondents*

The school Principal will follow the appropriate procedures for addressing student misconduct, as outlined in the Education Act and other specific Board policies and procedures.

#### *Employee Respondents*

The appropriate supervisory/managerial staff shall impose formal discipline, in consultation with People and Culture, as deemed appropriate based on the findings of the investigation (e.g., written warning, suspension, up to and including termination of employment with the Board).

In all cases where a complaint is substantiated and a determination is made to proceed with formal discipline, the appropriate supervisory/managerial staff shall ensure that a record/letter of the disciplinary action is placed in the employee respondent's official personnel file. The supervisor/manager should keep their written notes of any non-disciplinary responses secured in their own files. The discipline will be the only documentation that remains on the employee's file for the duration applicable as per the relevant Collective Agreement or Terms and Conditions of Employment

**No other information or documentation regarding a harassment, discrimination or Code-based workplace harassment complaint (other than disciplinary action), should be included in an employee's official personnel file.**

#### *Members of the Public Respondents*

Dependent upon the circumstances, parents, contractors etc. may be issued letters of disapproval/warning, revoking of permits/contracts, or an issuing of a no trespass warning.

### (a) Potential Remedial Action

Examples of possible remedial actions include the following:

- Education or Training
- Counselling for the parties

- Customized workshops for staff/students
- Application of strategies to restore a positive working/learning environment.
- Permanent separation of parties

(b) Actions related to Systemic Discrimination

Where systemic discrimination is found, steps be taken to ameliorate such conditions by actions such as:

- Departmental re-organization
- Applying Employment Equity goals and timetables in specific areas
- Replacing learning/working materials
- Professional learning and training for appropriate staff
- Reconsidering the assessment and placement procedures for students

### **6.11 Reprisal**

All employees have the right to report, in good faith, pursuant to this Procedure without fear of reprisal. Reprisal by any person against anyone involved in the resolution or investigation options described above will not be tolerated and will be subject to discipline, up to and including dismissal.

### **6.12 Vexatious Complaints**

Where it is determined that malicious, false, frivolous, wilfully damaging or otherwise in bad faith complaint, was made against an employee, disciplinary action may be taken against the complainant. Complaints brought in good faith, but which are unsubstantiated are not vexatious complaints.

### **6.13 Privacy and Records**

Any personal information obtained through the reporting and/or investigation process will be kept in accordance with TDSB's privacy obligations set out in *MFIPPA* and the TDSB's Freedom of Information and Protection of Privacy Policy (P094).

All correspondence and other documents generated under these procedures and related policies will be marked, "PRIVATE AND CONFIDENTIAL" and will be kept securely by management/supervisory staff and the HRO.

These records shall be kept for a period of 15 years from file closure (in accordance with records retention), and if at that time there is no litigation, investigation or further activity under these procedures or other related policies involving a party to the original complaint, all records of the complaint (paper and electronic) will be shredded or erased. A record of the type of

document destroyed, by whom and when should be kept in accordance with Privacy legislation.

Please note that it is unlawful for an employer to destroy any evidence or potential evidence that may be required in a matter that is currently, or that you may be aware may result in litigation. Contact TDSB Legal Services or the HRO, if in doubt.

Statistics may be derived from information collected under these procedures and related policies; however, in all cases it will be presented in aggregate form without the use of names or other personal identifiable information.

## **7.0 EVALUATION**

In order to ensure the effectiveness of these procedures they will be reviewed as required, but at a minimum every five (5) years.

## **8.0 APPENDICES**

Appendix A: Human Rights Complaint Form (Form 515A)

## **9.0 REFERENCE DOCUMENTS**

### Policies:

- Acceptable Use of Information Technology Resources (P088)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Freedom of Information and Protection of Privacy Policy (P094)
- Gender-Based Violence (P071)
- Human Rights (P031)
- Occupational Health and Safety (P048)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Respectful Learning and Working Environment (P073)
- Workplace Harassment Prevention for Non-Human Rights Code Harassment Policy (P034)
- Workplace Violence Prevention (P072)

### Operational Procedures:

- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Code of On-line Conduct (PR571)
- Complaint Protocol for the Board Member Code of Conduct (PR708)
- E-mail Usage (PR572)
- Interim Measures Pending Investigations Procedure (PR743)
- Non-Human Rights Code Harassment (PR740)

- Parent Concern Protocol (PR505)
- Promoting a Positive School Climate (PR697)
- Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in School (PR728)
- Sexual Misconduct by Students (PR608)

Legislative Acts and Regulations:

- Ontario *Human Rights Code*
- *Education Act*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Occupational Health and Safety Act*

## HUMAN RIGHTS COMPLAINT REPORTING FORM

[This form is for Human Rights and Code-based Workplace Harassment complaints]

**COMPLAINANT** (Your Details):

First Name:

Last Name:

Employee Number:

Please indicate your personal pronouns:

Job Title:

School/Department/Worksite:

Preferred Phone Number (Home/Cell):

Preferred Email Address:

Are you on a Leave: Yes No

If yes: Is this a Medical Leave: Yes No

Is the Leave related to this complaint: Yes No

Dates of Leave: to

If on a Leave, can a representative from the HRO contact you during the Leave: Yes No

Name/Job Title of your current Supervisor:

Supervisor at the time of the allegation(s):

Are you Unionized: Yes No If yes, specify Union:

Union Representative - Email and Phone Number (if applicable):

**RESPONDENT 1:**

First Name:

Last Name:

Is the Respondent on a Leave (if known): Yes No Unknown

Job Title (e.g., Parent, Teacher, Volunteer, etc.):

School/Department/Worksite:

Respondent's Supervisor at the time of the allegation(s):

**If there are additional Respondents relating to this matter, please provide their full names and job titles in the box below:**

**DETAILS OF COMPLAINT:**

Please consult the Board's [Human Rights Policy \(P031\)](#), [Human Rights and Code-Based Workplace Harassment Procedure \(PR515\)](#), and [Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy \(P034\)](#) before completing this section.

For workplace harassment complaints that are not based on a human rights ground, please review Policy P034 (Non-Code Based Workplace Harassment) and fill out form P034A.

**Please check off all the prohibited grounds that apply to your case. Specify in the description of each incident in your complaint below, which grounds apply to which allegations.**

Age	Ethnic Origin	Sexual Orientation
Ancestry	Family Status	Race
Citizenship	Gender Expression	Records of Offences –
Colour	Gender Identity	Provincial Offences or
Creed (Religion)	Marital Status	Pardoned Federal
Disability or Perceived	Place of Origin (where	Offences (in employment
Disability (Including mental	one was born)	only)
or physical illness and some	Sex (including Pregnancy,	Socio-economic Status
addictions)	Sexual harassment)	

**Self Identification:** Please indicate how you identify, under each of the Prohibited grounds you selected above (see Guide for more details):

**Has this complaint been reported previously?**

Yes      No      **(If no, please answer question 5 below)**

**If yes:**

- 1) Name and Position (e.g., Principal, Superintendent, Team Lead, etc.) of the person(s) you reported your concerns to:
- 2) Date that you reported the allegations:
- 3) Actions taken by person you reported your concerns to (including but not limited to an investigation)

4) Outcome of actions taken:

5) **If you did not report the matter**, please be aware that you are generally expected to report your concerns to your next-level or appropriate next-level supervisor. If you did not do so, please indicate why:

**Have you filed any other complaint(s) regarding these incidents/allegations (e.g., grievance, Human Rights Tribunal of Ontario)?**

Yes      No

If yes, please provide the following details:

- 1) When did you file your complaint?
- 2) Where did you file your complaint (name of agency/organization/body)?
- 3) What stage is your complaint at (e.g., scheduled for mediation on xx date, etc.)?

**SUMMARY OF COMPLAINT (please read carefully):**

Please provide a summary of the complaint. When describing the incident(s) that you believe was harassment and/or discrimination, please include the following:

- **When:** What date(s) and time(s) did the incidents take place?
- **Where:** Where did the incidents occur?
- **Who:** Who is the person that your complaint is about/who was involved?
- **What:** Please describe what occurred.
- **Witnesses:** Was anyone else present? Did anyone else hear or see the incidents?
- **Prohibited Grounds:** Explain why and how you feel each incident connects to a prohibited ground.
- **Reporting Delay:** If allegations took place longer than 12 months ago, please explain the delay.

**Complaint Incident 1:**

Date and Time:

Location:

Witness(es):

Details of Incident:



How have you been impacted/affected by the incident?

How does the incident connect to the Prohibited grounds you indicated above, related to your identity?

**Complaint Incident 2:**

Date and Time:

Location:

Witness(es):

Details of Incident:

How have you been impacted/affected by the incident?

How does the incident connect to the Prohibited grounds you indicated above, related to your identity?

Please attach additional pages to summarize incidents or additional incidents in your complaint

**Additional Pages Attached: Yes    No**

**Desired Outcome:** What would you like to see happen to address your complaint with the Human Rights Office?

**Would you consider facilitated restorative mediation/discussion with the Respondent to address your concerns?**

**Yes                      No**

Please provide details:

**Accommodation(s)** (Please advise of any accommodation or accessibility needs):

**Declaration:** I certify that the information provided on this form is accurate.

Complainant's Signature:

**Date:**

**INSTRUCTIONS FOR SUBMITTING THIS FORM:** Once complete and signed, please email the form to:  
[HumanRightsOffice@tdsb.on.ca](mailto:HumanRightsOffice@tdsb.on.ca)

### **Notice of Collection**

The information contained in this form is of a highly confidential nature and will be protected in accordance with the provisions of the ***Municipal Freedom of Information and Protection of Privacy Act***.

This is a confidential process and it is expected that you will not advise anyone in the workplace, or otherwise connected with the workplace about this complaint, with the exception of your union or association representative.

You are reminded that you are encouraged and entitled to make use of the Board's Employee and Family Assistance Program if you are an eligible TDSB staff.