

<b>Kelsey School Division Box 4700 The Pas, MB R9A 1R4</b>	<b>Code: GBEA</b>
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## **HARASSMENT**

### **A. Commitment**

Kelsey School Division is committed to:

1. Providing a safe and healthy work environment for all employees, students, and visitors;
2. Ensuring that reasonable precautions are in place to prevent illness and/or injury;
3. Recognizing the roles, rights, and responsibilities of all employees in the field of Workplace Safety and Health, and ensuring that all employees are aware of these and other conditions embodied in provincial legislation;
4. Complying with the requirements of all relevant statues, regulations, and standards of government agencies and other regulatory authorities representing Workplace Safety and Health;
5. Supporting safe work procedures through the funding of adequate equipment, programs, and training through the establishment of standards of safe work programs;
6. Establishing and maintaining a Workplace Safety and Health Program to ensure the goals of this policy and encourage the right of participation and responsibility of all employees for maintaining a healthy and safe workplace.

### **B. Responsibility**

1. Although it is everyone's responsibility to maintain a healthy and safe workplace, it will be the responsibility of the Superintendent of Schools to ensure that all aspects of this policy are being followed.
2. Individuals have the right to take assertive action when they encounter harassment in the learning or working environment. An individual who believes he/she is being harassed by a person in a position of authority, or by a co-worker, or by any other person affiliated with the Kelsey School Division, shall report all instances of harassment to the administration and their respective union or association representative.

### **C. Definitions**

1. Consistent with the Human Rights Code and the characteristics referred to in that Code, in Subsection 19(2), harassment is any one or more of the following:

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- a) a course of abusive, unwelcome, and/or exclusionary conduct or comment undertaken or made on the basis of any of the following characteristics: ancestry, including colour and perceived race; nationality or national origin; ethnic background or origin; religion or creed, religious belief, religious association or religious activity; age; sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy; gender determined characteristics or circumstances other than those included in subsection (a); sexual orientation; marital or family status; source of income; political belief, political association, or political activity; physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair or any other remedial appliance or device.
- b) a course of abusive, unwelcome, and/or exclusionary conduct or comment undertaken or made on the basis of work assignment, work relationship, of medical circumstances, or illness as harassment. Although harassment is typically initiated by a person in a position of authority, it may occur in a number of ways. Harassment of a student by a student, employee by employee, employee by student, student by employee are some examples.
- c) any repeated and unwelcome comment, look, suggestion, or physical contact that creates an uncomfortable working environment for recipient; and is made by a person who knows, or ought to know, that it is unwelcome;

2. Sexual harassment shall be defined as:

- a) any repeated and unwelcome comment, look, suggestion, or physical contact that creates an uncomfortable working environment for recipient; and is made by a person who knows, or ought to know, that it is unwelcome;
- b) a single sexual advance especially made by a person in authority that includes or implies a threat; and/or
- c) a reprisal made after a sexual advance is rejected.

[This definition cannot be changed unless by mutual agreement between Kelsey School Division and the Kelsey Teachers' Association as per contractual agreement.]

- 3. Racial and/or Discriminatory Behaviour are defined as a verbal, written, or physical expression of racial, discriminatory, or ethnic bias which exhibits a negative attitude, disparagement, or hatred toward a person's or group's race, colour, religious preference, sexual orientation, or ethno cultural heritage (including racial/ethnic slurs, jokes, graffiti, images, and stereotyping as well as threats, abuse, intimidation, or assault).

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**D. Investigative Officer**

1. The Kelsey School Division shall appoint an investigative officer to investigate any alleged harassment. The principal shall act as the investigative officer if the alleged harassment involves a teacher, employee, or a student at the school level. The Superintendent shall act as investigative officer if the alleged harassment involves Division office personnel or garage personnel. The school Board shall appoint an investigative officer other than the principal mutually acceptable to KTA and CUPE if the alleged harassment involves an administrator, supervisor, or trustee.
2. The investigative officer shall be expected to deal expeditiously and fairly with any known instances or allegations of harassment. The investigative officer must act promptly and provide written documentation or corroborative evidence of steps taken to deal with the situation. The complainants, supervisors, administration, and unit heads shall cooperate fully with the investigative officer.

**E. Confidentiality**

1. The School Division encourages its staff members and students to report all instances of harassment to the administration, the appropriate unit head or the investigative officer. The provision of confidentiality extends to the complainant, the alleged harasser, or any other individual who reports harassing behaviour. Confidentiality should be maintained at each stage of the procedure.
2. Should a complaint proceed to the stage of a formal complaint, requiring investigation, it will be necessary to keep a file on pertinent information. However, these files should be maintained separately from employee's personnel files and should be destroyed two years after the date of satisfactory resolution. If the accused is supported in the resolution, the accused may ask that the file be immediately expunged or retained for a two-year period. This shall be solely at the accused's discretion.

**F. Procedure**

- Step 1 If students and staff members or other employees believe that they have been subjected to harassment, they should take direct action and make the unease and/or disapproval known to the respondent immediately. This should be done in a courteous, professional manner. The complainant should make clear that this action is to stop immediately.
- Step 2 If the actions by the respondent do not cease as a result of Step 1, the complainant should lay a formal complaint to the School Division's investigative officer. A written record of the date, time, and nature of the incident(s) and the names of any witnesses should be kept. If a written complaint is made, the investigative officer shall determine whether the incident(s) on which a complaint is based would fall within the definition of harassment as set out in the policy on harassment.

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If in the opinion of the investigative officer, the incident(s) would not constitute harassment as set out in the policy, the complainant will be so advised and no further investigation shall take place.

1. If in the opinion of the investigative officer, the incident(s) constitutes harassment as set out in the policy, the following procedures shall apply:
  - a) the investigative officer shall advise the respondent of the complaint that has been received.
  - b) The investigative officer shall investigate the complaint and interview the complainant and the respondent. The complainant or respondent may be accompanied during the interview by a union representative (in the case of unionized staff) or by parents or guardian in the case of students.
  - c) The investigative officer shall decide on and initiate an appropriate course of action and communicate their resolution in writing to the complainant and the respondent. Where no mutually agreeable resolution has been reached, the complainant or the respondent shall immediately appeal the decision to the Superintendent.
  - d) No person shall be subject to reprisal or threat of reprisal as a result of filing a complaint under this clause. It is recognized that false or malicious complaints may damage the reputation or be unjust to others. Disciplinary action may apply in cases where false or malicious complaints are lodged.

Step 3: The Superintendent shall review all the information available from Step 2 and shall involve all personnel previously in Step 2. The Superintendent must offer a resolution; which shall be communicated to both the respondent and the complainant.

Step 4: In cases where the action taken by the Superintendent is considered to be inappropriate, the matter shall be referred immediately to the Board of Trustees for review.

Step 5: Failing satisfactory resolution from the Board of Trustees, either the complainant or the respondent may apply for an arbitration board ruling.

**G. Appeals**

Any decision of an investigative officer, Superintendent, or School Board may be appealed by the complainant or respondent through normally accepted procedures set out by the School Division. The time launching the appeal shall not exceed 14 days after a decision has been rendered.

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**H. Discipline**

1. The nature and type of discipline will depend on the severity of the incident. In the case of employees, disciplinary measures may range from reprimands and warnings for less serious offenses to suspensions without pay or discharge for more serious offenses. If a transfer is necessary, it should be the harasser who is transferred, not the victim. However, before deciding upon the appropriate disciplinary action, factors such as the nature of the behaviour, the persistence of the behaviour, whether or not the harasser displays cooperation and willingness to change, may be taken into consideration.
2. In a case where a victim of harassment has suffered a loss, such as a demotion or denial of a promotion, it is appropriate to restore such a person to their proper employment position. Depending on the circumstances, the employer may want to consider providing some outside psychological counselling or a leave of absence to the victim should it be necessary.
3. Other remedies may include a written or oral apology from the harasser.

**I. Specific Incident Scenarios**

1. Between Students
  - a) School staff who witnesses a racial incident and/or discriminatory behaviour and/or harassment must intervene immediately.
  - b) The principal will arrange for a meeting with the offending student and his/her parent(s) or guardian(s) if a problem is not effectively resolved at the staff member level or is repeated. The disciplinary policies of the Kelsey School Division shall provide direction for appropriate action.
  - c) If the meeting with the parent(s) or guardian(s) proves ineffective and there is another incident, students may be suspended at the principal's discretion subject to the provisions of the Public Schools' Act and the disciplinary policies of the School Division.
  - d) All racial/discriminatory/ethnic behaviours serious enough to warrant disciplinary action by a school administrator are to be reported to the Superintendent who will report to the Board through established procedures.
  - e) Once a report of a racial incident and/or discriminatory behaviour is made to the Superintendent, the students involved and their parents/guardians shall be advised of the action that is being taken.

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2. Between Staff and Students

- a) All racial incidents, discriminatory behaviour and/or harassment involving staff and students will be reported immediately to the principal. The principal will investigate an allegation in order to resolve it. If there is no satisfactory resolution, the incident should be reported to the Superintendent for investigation.
- b) If an allegation is substantiated, the Superintendent will write a letter of reprimand to the offending individual including documentation relating to the incident.
- c) If there is a second substantiated incident involving the same offending individual, the Superintendent will advise the offending individual in writing that the matter has been reported to the Board of Trustees for their information. Any further substantiated incidents would lead to a hearing before the Board of Trustees for appropriate disciplinary action.

3. Between Staff Members

- a) Teachers have the right to lodge a complaint under the provisions of their Code of Professional Practice. Where a staff member feels that they are a victim of a racial incident and/or discriminatory behaviour, they may lodge a complaint with their immediate supervisor. The supervisor has a responsibility to attempt to resolve the incident.
- b) If the immediate supervisor is unable to resolve the incident, a report with the approval of the employee, shall be sent to the Superintendent. The Superintendent may appoint a three-person review team to investigate and report back to the Superintendent on the matter.
- c) After receiving the report, if an allegation is substantiated, the Superintendent will advise the employee in writing that the matter has been reported to the Board of Trustees and that any further substantiated incidents would lead to a hearing before the Board of Trustees. Disciplinary action, as deemed appropriate by the Board, may result.

4. Between Staff And Others

Staff who feel they have been subjected to harassing behaviour by others as a result of performing their staff responsibilities shall report the incident to their immediate supervisor.