



401.2AP Bullying/Personal/Sexual Harassment

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LEGAL REFERENCE:

- *Education Act Section 31 (e), 33, 35, 35.1, 36*
- *Alberta Human Rights Act*
- Canadian Charter of Rights and Freedoms
- Criminal Code of Canada

CROSS REFERENCE:

- [402.2AP Staff Code of Conduct](#)
 - [202.7AP Student Code of Conduct](#)
 - [202.3AP Appeals Concerning Student Matters](#)
 - [401.2AP Exhibit 1 Respectful Conduct Reporting Form](#)
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DEFINITIONS:

The following definitions shall apply in the implementation of this administrative procedure:

Harassment/Bullying - whether “personal” or “sexual,” is behavior that is directed at or is offensive to any person, is unwelcome and which the “harasser” knows or ought reasonably to know would be unwelcome. It may consist of objectionable conduct, comment, materials, or display that demeans, belittles, intimidates, or humiliates another person. Bullying is a repeated and hostile or demeaning behavior by an individual in the school community where the behavior is intended to cause harm, fear, or distress to one or more other individuals in the school community, including psychological harm or harm to an individual’s reputation. It can occur through written, verbal, non-verbal, physical, or electronic means (including the distribution of an intimate image of another person knowing that the person depicted in the image did not consent to the distribution, or being reckless as to whether or not that person consented to the distribution.) Harassment may arise in the form of the misuse of power or authority, technology – intimidation, threats, coercion, and blackmail. Harassment and

bullying are not only offensive and degrading; they violate Human Rights Legislation and may result in criminal charges being laid.

Learning and Working Environment - The learning and working environment can and does extend beyond the immediate school or school jurisdiction office. These sites extend to the playground, school bus, school or work related social activities, school or work-related travel and field trips or other settings where the individuals involved are engaged in work-related or school-related activity such as field placement or a cooperative educational work term. The working and learning environment also includes electronic media.

Hostile or Poisonous Work Environments - are characterized by behavior not necessarily directed at any one person in particular; however, the actions of one or more people in this environment may contribute to an atmosphere which directly or indirectly affects a person's ability to work effectively.

Personal Harassment – Is any behavior that in effect or in intent disparages, humiliates, or harms another person. It is behavior, which denies individuals' dignity and respect, and is demeaning and/or humiliating to another person. The behavior need not to be intended as harassing to be considered as personal harassment. It is sufficient that one knows or ought reasonably to know that their behavior is offensive and unwelcome.

Sexual Harassment – Is any unwelcome behavior, which is sexual in nature. Such behavior may directly or indirectly affect or threaten to affect in an adverse manner a person's job security, prospects, promotion, earnings, working conditions, or learning environment. The behavior may not be intended to be sexual harassment, but may be perceived as sexual harassment. It is sufficient that one knows or ought reasonably to know that their behavior is offensive and unwelcome. It can include, but is not limited to: unwanted physical contact; unwelcome remarks or compromising invitations; verbal abuse or display of suggestive pictures; leering, whistling, innuendoes, jokes or other behaviors or gestures of a sexual nature; demands for sexual favors; stalking; insulting remarks about sexual orientation; threats or intimidating behavior; bragging about sexual prowess for others to hear; sexually insulting remarks;

Assault – It is the most basic of offences of violence. Section 265 of the Criminal Code of Canada sets out three ways for the offence to occur. It can be through the intentional non-consensual application of force. It can also be an attempt or threat of non-consensual application of force or lastly the interference with a person while having a weapon.

PROCEDURES:

1. Staff, students, parents, volunteers, and all other visitors shall conduct themselves in a manner that promotes and protects the best interests and wellbeing of students and staff.
2. Staff, student, parent and/or guardians, or volunteer who subjects a student, staff member, parent, volunteer, or other member of the public to personal and/or sexual harassment may be subject to disciplinary action as is deemed to be appropriate.
3. Appropriate action will be taken against others whose conduct has resulted in harassment or bullying of students, staff, or representatives of the Board.
4. Complainant's Responsibility

- 4.1 Individuals who believe they have been the subject of personal and/or sexual harassment by a Board's employee, student or volunteer should make their objection known clearly to the offender and/or the person in authority. However, while it is preferable that objections to harassment be voiced to the offender, it is not a prerequisite to filing a complaint.
 - 4.2 Students can obtain advice and assistance regarding strategies designed to address peer harassment or teacher/student harassment by contacting a teacher, a counsellor, or an administrator (principal, superintendent, etc.).
 - 4.3 Any complaint must be filed within a reasonable time from the occurrence of the last incident. The Board reserves the right not to deal with any complaint which is based on facts which occurred more than one (1) year prior to the date of the complaint.
5. Other Avenues of Recourse
- 5.1 This administrative procedure does not affect an individual's right to file a complaint or to respond to a complaint with the Human Rights Commission or to seek such other redress as may be provided under law. Complaints with the Alberta Human Rights Commission must be filed within one year of the alleged incident or, in the case of a series of incidents, within one year of the most recent incident.
 - 5.2 It should also be noted that sexual and other forms of assault are covered under the Criminal Code of Canada and that police may be asked to investigate.
6. Complaint Procedure and Right to Appeal
- 6.1 Personal and/or sexual harassment complaints are made in accordance with the provisions of this administrative procedure.
 - 6.2 All complainants shall have the right to appeal. This includes parental appeals on behalf of minor children as defined by law.
7. Confidentiality
- 7.1 Concerns or complaints received pursuant to this administrative procedure shall be held in strict confidence between the complainant, respondent and other such individuals as may, of necessity, be involved in the resolution of the complaint.
 - 7.2 Information/investigation of these issues is kept separate and secure from the employee's personnel file.
 - 7.3 Information/investigation files involving allegations against a student shall be kept separate and secure in the student's confidential record.
 - 7.4 Confidentiality of information is not the same as anonymity. The respondent is entitled to know the identity of the complainant and to receive a written copy of the complaint outlining the specifics of the allegation(s).
8. Breach of Confidentiality
- 8.1 Any individual found to be in breach of confidentiality may be subject to disciplinary action.

9. Records

- 9.1 If the allegation is proven to be true, the record of the investigation and final disposition will be kept in the employee's personnel file or in the student's student record. After a period of two (2) years, the employee or student may request that all such related material be removed from the personnel file. The request for removal must be submitted, in writing, to the Superintendent.
- 9.2 If the investigation fails to disclose evidence to support the complaint, no record of the complaint shall be retained in the alleged harasser's personnel file and/or student record.

10. Vindication

- 10.1 At the discretion of the respondent in those cases where the allegations have been shown to be unfounded or false, the respondent may require that a letter of vindication be included in the respondent's personnel file and/or student record.

11. Protection Against Retaliation

- 11.1 Retaliation against the complainant for reporting personal and/or sexual harassment will not be tolerated.
- 11.2 Any attempt at retaliation will be viewed as harassment and will be subject to the provisions of this procedure.

12. False Charges

- 12.1 If an investigation determines that an employee made complaints in an intentionally false, malicious, or vindictive manner, disciplinary action, dismissal, or legal action as may be appropriate in each circumstance shall result.
- 12.2 Complaints made by a student in an intentional false, malicious, or vindictive manner shall result in disciplinary action, including suspension and/or expulsion.

13. Responsibilities of Supervisory Personnel

- 13.1 It is the responsibility of all Board staff, especially administrators and supervisors, to take immediate and appropriate corrective action in situations involving personal and/or sexual harassment complaints.
- 13.2 It is the responsibility of all supervisory personnel to make staff and students aware of this procedure.

14. Where an allegation of personal and/or sexual harassment is made by a student against a student, the matter will normally be resolved in accordance with these procedures.

15. Concerns relating to personal and/or sexual harassment by a person other than an employee or student shall be handled on an individual basis as circumstances may warrant.

16. In the event of personal and/or sexual harassment, an employee or student may pursue either an informal resolution or formal recourse. This decision may be made by the individual who considers him/herself the victim of harassment or by the Superintendent.

17. Informal Resolution

- 17.1 An individual may choose to initiate action to resolve a harassment situation.
Possible action could include some or all of the following:
- 17.1.1 The complainant may inform the harasser that the actions are unwelcome and must stop immediately;
 - 17.1.2 The complainant may request the involvement of an administrator or supervisor to provide informal intervention towards an acceptable resolution of the situation;
 - 17.1.3 The complainant should keep a record of incident(s) including dates, times, locations, possible witnesses, description of incident(s), personal response and resulting outcome.
- 17.2 An individual may wish to approach the situation with the assistance of an administrator, or supervisor;
- 17.2.1 The complainant may request in oral or written form support and/or intervention. The complainant must be prepared to share the nature and details of the complaint with an administrator or supervisor;
 - 17.2.3 The administrator or supervisor will consult with the complainant within ten (10) working days;
 - 17.2.4 Subsequent to consultation and further exploration of case specifics, the administrator or supervisor will make a recommendation within thirty (30) working days. If the complaint is not resolved, the parties may move to formal recourse.

18. Formal Recourse

18.1 School Investigations (student-to-student harassment)

- 18.1.1 A school official will inform the respondent that a complaint has been received;
- 18.1.2 A school official will conduct an investigation, which may consist of personal interviews with the complainant, the respondent and others who may have knowledge of the incidents or circumstances that led to the complaint. The parents of the complainant and respondent shall normally be contacted near the beginning of the investigation;
- 18.1.3 Upon completion of the investigation the school official shall communicate the results to both parties and/or parents/legal guardians;
- 18.1.4 Where the school official believes the complaint is valid, the school official shall determine an appropriate disciplinary action.

19. Complaints of personal and/or sexual harassment may be made to external sources such as the Human Rights Commission and the employee's union or association.

20. Employee Investigation

- 20.1 The formal process of complaint may be pursued in the event that the informal process does not resolve the situation, or the Superintendent believes the formal process to be more appropriate.
- 20.2 Formal complaints are submitted in writing by the complainant to the Superintendent.
- 20.3 For people with disabilities and/or communication problems and/or small children who require accommodation in this regard, alternative methods for filing a complaint such

as recording devices, scribes, etc. are acceptable.

20.4 Complainants are encouraged to file a complaint as soon as possible.

20.5 At any point in the formal process consensus is reached that the informal approach is more appropriate, the formal process may be suspended.

21. If a formal investigation is deemed necessary, the Superintendent ~~of Schools~~ or designate shall:

21.1 Advise the alleged harasser, in writing, of the nature and specifics of the allegations that an investigation has been initiated and inform the respondent of his/her rights under Board Policy, Administrative Procedure, the *Education Act* and other relevant legislation.

21.2 Advise the complainant of the investigation.

21.3 Provide the respondent with a copy of the written complaint.

21.4 Provide for the interview of the respondent, complainant, and witnesses separately.

21.5 The investigation shall be carried out by an individual appointed by and responsible to the Superintendent or designate. The complainant reserves the right to request that the investigator is an individual with whom they feel comfortable with (within the limits of those who have the authority to carry out the investigation).

21.6 The respondent shall be informed with reasonable particularity of the allegations being raised.

21.7 The respondent is entitled to have representation.

21.8 The respondent shall be provided with the evidence supporting the allegations and be given a reasonable opportunity to be heard and reply to that evidence.

21.9 The investigation and report shall not contain or be influenced by information that is prejudicial, ill-founded, or irrelevant and findings of fact shall be based upon evidence not upon assumptions.

21.10 The investigator shall forward a written report with the findings of the investigation and the recommendations to the Superintendent or designate within thirty (30) working days.

21.11 Based on recommendations and evidence in the report, the Superintendent or designate shall take action that is consistent with Board policies and practice relating to employee discipline.

21.12 The Superintendent or designate will advise the complainant of the outcome of the investigation and subsequent action taken within ten (10) working days after the completion of the investigation.

21.13 Appeals by either party must be made in accordance with jurisdictional policy and procedure.

21.14 It should be noted that extenuating circumstances may affect some of the timelines outlined in this administrative procedure. Such circumstances will be documented and communicated to all parties involved as they arise.

21.15 Appropriate disciplinary action will be taken in the event of intentionally false, malicious, or vindictive complaints.

21.16 The Superintendent or designate shall ensure that appropriate support services are

set in place for the employee where the allegations of harassment are dismissed.

21.17 The Superintendent or designate shall make available appropriate support services for victims in harassment situations.

21.18 If the Superintendent is identified as the alleged harasser, the entire matter shall be directed to the Board Chair.

21.19 The standard of proof to be used in determining if a complaint has merit is based on a balance of probabilities.

22. Systemic Investigations

22.1 To ensure that the environment is free from harassment, the Superintendent may decide to conduct an investigation in the absence of specific complaint from an employee, student, parent, or volunteer in order to address, resolve or prevent harassment in the work and/or learning environment:

22.2 Where there is a focused pattern of inquiries and/or complaints over time which suggests the existence of a specific problem which has been identified but not corrected or;

22.3 Where there is reason to believe that a broader, systemic problem exists in the work and/or learning environment which causes, contributes to, or encourages harassment, or;

22.4 Where, as the result of an investigation, a complaint is not supported but there is reasonable evidence that a broader systemic problem exists.

22.5 Prior to proceeding with an independent investigation, a summary of the situation providing reasonable grounds for recommending investigation in the absence of a specific complaint will be drafted.

22.6 This summary will be presented to the Superintendent or designate for consideration. Where an investigation under this section is approved, the appropriate parties will be advised of the intent to conduct a systemic investigation, the reasons for initiating the investigation and the process/procedures that will be implemented.

22.7 In lieu of a systemic investigation, the Board may also initiate activities to increase awareness of personal and/or sexual harassment and its effects on staff, students, parents, and volunteers.

23. Right of Appeal

23.1 Employees who are not satisfied with action taken with respect to enforcement of the administrative procedure are entitled to pursue the matter in the manner set forth as follows:

23.1.1 An appeal may be made in writing to the Superintendent within ten (10) working days;

23.1.2 The Superintendent will respond within thirty (30) working days;

23.1.3 Either party has the right to seek civil or criminal redress through the courts or to file a complaint with their union, association, or the Alberta Human Rights Commission.

23.2 Students who are not satisfied with action taken with respect to enforcement of this

procedure are entitled to pursue the matter set forth as follows:

23.2.1 An appeal may be made in writing to the Superintendent or designate within ten (10) school days;

23.2.2 The Superintendent or designate will respond within thirty (30) school days;

23.2.3 Appeals beyond this point are pursuant to 202.3AP, Appeals Concerning Student Matters.