

CHATHAM-KENT LAMBTON ADMINISTRATIVE SCHOOL SERVICES

Procedure:	Workplace Discrimination, Workplace Harassment, Workplace Sexual Harassment and Workplace Violence
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Revised:	



Immediate Reporting of Workplace Violence

IF YOU ARE THE VICTIM OF OR A WITNESS TO AN INCIDENT OF WORKPLACE VIOLENCE, YOU SHOULD IMMEDIATELY CONTACT YOUR ADMINISTRATOR OR CONTACT 911.

Prohibited Conduct - Discrimination, harassment, workplace sexual harassment and workplace violence are strictly prohibited and will not be tolerated or condoned in any form or under any circumstances.

Without limiting the generality, the following are examples of discrimination and harassment prohibited under this Policy:

- Discrimination based on a prohibited ground in any aspect of employment, such as recruitment, hiring, promotion, training, layoff, pay and benefits, termination, job assignments, or leaves of absence;
- Harassment in any aspect of employment, such as recruitment, hiring, promotion, training, layoff, pay and benefits, termination, job assignments, or leaves of absence, whether based on a prohibited ground or not;
- Sexual harassment and workplace sexual harassment;
- Discrimination or harassment because of an individual's relationship, association or dealings with another person identified by a prohibited ground or because the individual is believed to be a member of a group identified by a prohibited ground;
- Failure to provide appropriate employment accommodation as required by the *Code* and applicable CLASS policies;
- Creating, contributing to or condoning discrimination, harassment or sexual harassment in the workplace.

CHATHAM-KENT LAMBTON ADMINISTRATIVE SCHOOL SERVICES

In addition to the categories of conduct prohibited, the following categories of conduct are also prohibited under this Policy:

- Failure by a manager to respond promptly or appropriately to any incidents of discrimination, harassment or workplace violence that come to their attention;
- A bad faith or malicious allegation, complaint or accusation that another person has engaged in behaviour or conduct inconsistent with this Policy;
- Providing evidence in bad faith or maliciously in the course of an investigation into a complaint under this Policy;
- Failure by any person to cooperate in an investigation into a complaint under this Policy;
- Interference with an investigation, including but not limited to intimidation of a complainant (the person making a complaint), a respondent (the person against whom a complaint is made) or a witness, and/or influencing a person to provide false or misleading information in the course of an investigation into a complaint under this Policy;
- A reprisal or threat of reprisal, against an individual for exercising a right under this Policy, or against any other person who is performing a legitimate role under this Policy. Corrective action imposed to any individual in response to a violation of this Policy is not considered a reprisal.

Administrative Procedures:

1.0 Responsibilities

- 1.1 CLASS is responsible to ensure the provision of a work environment free from all forms of discrimination, harassment, workplace sexual harassment and workplace violence in accordance with the Ontario Human Rights Code (OHRC).
- 1.2 The CLASS Senior Administrator is responsible for the implementation of this Policy and will promptly investigate allegations of discrimination, harassment, workplace sexual harassment, and/or workplace violence submitted under this Policy.
- 1.3 CLASS will inform employees of this Policy and reporting mechanism provided in this Procedure and will ensure employees are aware of their right to report discrimination, harassment, workplace sexual harassment and/or workplace violence.
- 1.4 All employees and volunteers share the responsibility of establishing and maintaining a climate of respect within the workplace and to address any situations in which respect is lacking. This means not engaging in, allowing, condoning, or ignoring behaviour contrary to this Policy.

CHATHAM-KENT LAMBTON ADMINISTRATIVE SCHOOL SERVICES

2.0 Expectations

- 2.1 Each employee and volunteer may exercise the right to request information or to lodge a complaint based on this Policy without fear or threat of reprisal for so doing.
- 2.2 Where the parties are unable to resolve a complaint themselves, it is preferable the complaint be resolved within the work group with the assistance of the immediate supervisor. Where resolutions are not achieved at that level, the complaint will be referred to the CLASS Senior Administrator for investigation and resolution.
- 2.3 CLASS will provide fair and due process for all parties involved in the reported incident(s) before, during and after the investigation.
- 2.4 All parties involved in any incident of discrimination, harassment, workplace sexual harassment and workplace violence under investigation by CLASS will be advised to respect the confidentiality of the case and the confidentiality of any discussion and any documentation related to the investigation.
- 2.5 Confidentiality will be respected as much as possible; however, may not be absolute due to the nature of the resolution process; for example:
 - a) disclosure may be required for the purpose of investigating or taking corrective action with respect to the complaint; or
 - b) disclosure may be required by law.
- 2.6 A spirit of fairness must guide the proceedings. This includes the Respondent's right to know both the allegations and the Complainant, and the right of both parties to a fair and impartial resolution process.

Every attempt will be made to resolve complaints in an expedient manner to ensure fair treatment for both the Complainant and the Respondent and to guard against unsubstantiated claims which might result in gossip, loss of credibility, dignity or respect.
- 2.7 Disciplinary actions will be subject to the related provisions of CLASS collective agreements, and terms and conditions of employment.
- 2.8 All parties, including those responsible for the resolution of complaints, have the right to seek advice from the Ontario Human Rights Commission. However, in the event the Complainant chooses to file the complaint with the Commission or in the event either the Complainant or the Respondent retains legal counsel to resolve the complaint the internal process will cease and the matter will be turned over to the Ontario Human Rights Commission.
- 2.9 Nothing in this procedure precludes CLASS from invoking an investigation in accordance with these procedures in a situation where

CHATHAM-KENT LAMBTON ADMINISTRATIVE SCHOOL SERVICES

CLASS reasonably believes that discrimination, harassment, workplace sexual harassment and/or workplace violence may have occurred, even though no person has complained about a violation of this Policy.

- 2.10 The criminal law may apply in addition to the Policy and the police may be called in to investigate reported incidents of discrimination, harassment, workplace violence or workplace sexual harassment.

3.0 Stages of Complaint

- 3.1 The following process describes three stages: personal resolution, informal resolution and formal resolution. Action taken by a complainant, or that will be discussed with a complainant, will depend on the circumstances of the case. In all but the most serious cases, CLASS would hope that the matter could be resolved through the personal resolution or informal resolution stages. The aim is to arrive at a constructive and mutually acceptable outcome wherever possible.

- 3.2 Personal Resolution – Where an individual feels offended by the comments, behaviour or actions of others, they are advised to tell the offender to cease and desist. Similarly, where personalities or interpersonal conflict contribute to a negative environment, honest communication is encouraged to attempt to resolve the situation and restore a healthy and effective atmosphere in which to work.

The following process is recommended in such situations:

- a) Ask to speak privately to the person whose behaviour bothers you.
- b) Explain what about the behaviour bothered you, why and/or how, or, where the behaviour is harassing, ask the person to stop.
- c) Give the other person the opportunity to respond.
- d) If resolved, it is over and should not be discussed with any other staff.
- e) If not resolved or if resolved but happens again, submit a complaint to your immediate supervisor.

- 3.3 Informal Resolution – Where the parties to a complaint are unable to resolve the matter among themselves, the Complainant should inform their immediate supervisor as to the nature of the complaint and request an intervention.

Depending on the nature of the complaint, the supervisor will either attempt to facilitate a resolution or refer the complaint to the CLASS Senior Administrator.

A 'local' or 'informal' resolution facilitated by an immediate supervisor may take many forms including but not limited to: a verbal apology, written apology, mutual verbal agreement or mutually agreed letter of

CHATHAM-KENT LAMBTON ADMINISTRATIVE SCHOOL SERVICES

resolution. In any event, the immediate supervisor will document and file the facts giving rise to the complaint, any evidence presented or otherwise obtained and the resolution to the complaint.

- 3.4 Formal Resolution - Failing resolution of the matter through personal or informal resolution, the Complainant shall submit a formal complaint verbally or in writing, requesting formal resolution, to the CLASS Senior Administrator.

If the complaint contains allegations against the CLASS Senior Administrator, CLASS will refer the investigation to an external investigator to conduct an impartial investigation.

The report of the complaint should include the following information:

1. Name(s) of the employee who has allegedly experienced workplace harassment and contact information
2. Name of the alleged harasser(s), position and contact information (if known)
3. Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known)
4. Details of what happened including date(s), frequency and location(s) of the alleged incident(s)
 - i. Any supporting documents the employee may have in their possession that are relevant to the complaint.
 - ii. List any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.

A complaint of workplace harassment and/or discrimination should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a timely manner.

The CLASS Senior Administrator responsible for external investigator will attempt to facilitate a resolution mutually agreeable to the complainant, respondent, and CLASS. Where such a mutual agreement is not achieved, a resolution to the complaint will be administered. In either case, resolution may be within the range of a finding there is no objective evidence to support the complaint to termination of employment.

The formal resolution process typically will involve:

- Receipt of the complaint
- Collection and examination of files and records
- Interviewing of the Complainant

CHATHAM-KENT LAMBTON ADMINISTRATIVE SCHOOL SERVICES

- Interviewing of witnesses
- Interviewing of the Respondent, disclosure of the complaint and opportunity to respond
- Resolution, which may include a report summarizing the complaint, investigation, findings and whether workplace harassment and/or discrimination was found or not.

The Complainant and the Respondent, if they are an employee of CLASS, will be informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation. All records of the investigation will be kept confidential. The investigation documents, including the report, should not be disclosed unless necessary to investigate an incident or complaint.

Prevention, Communication and Education

CLASS recognizes the need to undertake a range of preventive measures to prevent discrimination, harassment, workplace violence and workplace sexual harassment. This includes the need to communicate with CLASS Governance Committees and employees about the importance of education and prevention of discrimination, harassment, workplace violence and workplace sexual harassment.

CLASS employees, including the CLASS General Manager will be informed of and educated about their rights and responsibilities under this Policy.

The Ontario Human Rights Code can be viewed at the following link:
<http://www.ohrc.on.ca/en/ontario-human-rights-code>.

CHATHAM-KENT LAMBTON ADMINISTRATIVE SCHOOL SERVICES

Definitions:

Discrimination – “Discrimination” includes, but is not limited to, differential and/or unfair treatment based on a prohibited ground set out in the Ontario Human Rights Code (“the Code”). It includes:

- Not individually assessing the unique merits, capacities and circumstances of a person.
- Making stereotypical assumptions based on a person’s presumed traits.
- Having the impact of excluding persons, denying benefits or imposing burdens.
- Discrimination does not include differential treatment which is permitted under the Code for special programs, special interest organizations, and special programs.
- Discrimination can be intentional or unintentional, and direct or indirect.

Harassment - Workplace harassment is defined in the Ontario Occupational Health and Safety Act (OHSA) as “engaging in a course of vexatious comments or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome” and includes workplace sexual harassment.

Harassment typically involves a pattern of comments or conduct that occurs over time. However, a single incident of a serious nature may be sufficient to constitute harassment.

Workplace harassment can include comment or conduct targeted towards a particular individual, as well as comment or conduct directed toward a group of individuals that creates a poisoned working environment for members of that group. Examples include but are not limited to:

- Offensive, embarrassing, humiliating, or demeaning words or comments;
- Bullying or aggressive behaviour;
- Displaying or circulating offensive pictures and materials;
- Inappropriate staring;
- Workplace sexual harassment; or
- Intimidating, isolating, or discriminating behaviour, making fun of a worker because of gender identity.

The reasonable exercise of management functions is not considered harassment for the purpose of this Policy. The reasonable exercise of management functions includes, but it is not limited to, giving reasonable instruction or supervisory direction to an employee, providing constructive criticism or counselling, enforcing workplace standards, taking corrective or disciplinary action, or conducting performance appraisals.

CHATHAM-KENT LAMBTON ADMINISTRATIVE SCHOOL SERVICES

Prohibited Grounds - The prohibited grounds set out in the Code are as follows:

- Age
- Ancestry, colour, race
- Citizenship
- Ethnic origin
- Place of origin
- Creed
- Disability
- Family Status
- Gender identity and gender expression
- Marital status
- Receipt of public assistance (in housing)
- Record of offences (in employment)
- Sex (including pregnancy)
- Sexual orientation

Workplace Sexual Harassment - "Sexual harassment" includes any harassment based on sex or gender, including but not limited to the following:

- Any sexual advance or other conduct of a sexual nature which is known or ought reasonably to be known to be unwelcome.
- Any reprisal or threat of reprisal (such as loss of job, or denial of advancement, a pay increase or any other employment benefit) for rejecting a sexual advance or other conduct of a sexual nature from a person in a position of authority who knows or ought reasonably to know that it is unwelcome.

The OHSA further defines Workplace Sexual Harassment:

- a) 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
- b) 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.

Workplace - The workplace is any place where employees perform work or work-related duties or functions. Schools and school-related activities, such as extra-curricular activities and excursions, comprise the workplace, as do Board offices and facilities. Conferences and training sessions fall within the ambit of this policy.

Workplace Violence – "Workplace violence" is defined in the OHSA as:

- a) the exercise of physical force by a person against an employee, in a workplace, that causes or could cause physical injury to the employee,
- b) an attempt to exercise physical force against an employee, in a workplace, that could cause physical injury to an employee,
- c) a statement or behaviour for which it is reasonable for an employee to interpret as a threat to exercise physical force against the employee, in a workplace, that could cause physical injury to the employee.