

Pembina Hills Public Schools is committed to a healthy, harassment-free work and learning environment. Students, employees, trustees, parents and community members should work and learn in an environment free of discrimination or harassment.

This Administrative Procedure (AP) is intended to provide a greater awareness about discrimination and harassment and to deal quickly and effectively with any prohibited behaviour that might occur.

This AP sets out guidelines regarding behavior that constitutes discrimination, harassment, bullying and prohibited behavior, during work and school related activities:

- between or among staff members
- between parents and staff/trustees
- between students and staff members

### **A. Definitions**

1. **Respect** means to demonstrate regard for the rights of others.
2. **Discrimination** means certain forms of harassment that are prohibited by human rights legislation. The law prohibits discrimination and therefore harassment on the following grounds: sexual orientation, race, religious beliefs, colour, gender, physical disability, mental disability, marital status, age, ancestry, place of origin, family status or source of income.
3. **Harassment** means conduct or communication in any form (including technology use: computer, internet, e-mail, messaging, cell phone, etc.) of attitudes, beliefs or actions whether deliberate or unintentional, towards an individual defined in this AP or group of people defined in this AP, which might be reasonably known to be unwelcome. If serious enough, a single act or expression can constitute harassment. Harassment occurs when an individual is subjected to unwelcome verbal or physical conduct because of race, religious beliefs, gender, physical disability, mental disability, marital status, family status, source of income, age, ancestry, colour, place of origin, or sexual orientation. Harassment may be either subtle or blunt.
4. **Sexual Harassment** means any unwanted sexual advance, request for sexual favours and any other unwanted conduct of a sexual nature. Sexual harassment can include conduct such as pinching, patting, rubbing or leering, "dirty" jokes, pictures of pornographic materials, comments, suggestions, innuendoes, suggestive comments, display or comment of a sexual nature that may reasonably be perceived as placing a connotation of a sexual nature on employment or learning environment. The behaviour need not be intentional in order to be considered sexual harassment. This AP is not intended to inhibit relationships based on mutually acceptable social relationships or contact between employees or non-employee adults. Unwanted sexual advances, unwanted requests for sexual acts, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
  - i. Such conduct undermines another individual's personal dignity by causing embarrassment, discomfort, humiliation or offence; or

- ii. Such conduct interferes with an individual's work performance or learning opportunities by creating an intimidating or hostile work or learning environment; or
  - iii. Submission to such conduct is made either explicitly or implicitly a term or condition of employment or of educational services; or
  - iv. Submission to or rejection of such conduct affects decisions regarding that individual's employment or educational advancement including matters such as promotion, salary, benefits, job security, grades or employment references.
5. **Bullying** means 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. (Education Act, Section 1(1)d)
  6. **Prohibited behaviour** means discrimination, harassment and/or sexual harassment as defined in this AP.
  7. **Examples of Where Prohibited Behavior may occur:**
    - any place where trustees, employees, students and other users perform learning, work, or work-related duties or functions, including conferences and training sessions.
    - any place where school-related activities occur, including field trips.
  8. **Student** means all persons who are enrolled in a program offered by the Division.
  9. **What Prohibited Behaviour is not:** the normal exercise of supervisory responsibilities including evaluation, training, direction, instruction, counselling, and discipline. The Division should be careful not to consider as objectionable conduct that which is acceptable to the majority of the population, when an overly sensitive person is affected.
  10. **To whom does this AP apply:** to all employees, trustees and other users such as students, parents, volunteers, contractors and employees of other organizations not related to the Division but who nevertheless work on or are invited onto Division premises.
  11. **Complainant** means the individual covered under this AP who makes the complaint.
  12. **Respondent** means the individual covered within this AP against whom the Complainant alleges the Prohibited Behaviour.

**B. Informed about Options**

1. All staff members shall be provided with information and access to district publications about harassment and discrimination. This information shall also be provided to new staff members at the time they are hired.
2. Complainants, Respondents and Persons in authority who are involved in complaint resolution processes shall be provided with information regarding:
  - i. Policy 19 Welcoming, Caring, Respectful, and Safe Environments and AP 20-20
  - ii. Counselling, support, and sick leave benefits provided by and through Pembina Hills Public Schools
  - iii. The right of the Complainant and the Respondent to be accompanied by a union or association representative or another individual
  - iv. The right of the Complainant to withdraw the complaint at any stage in the process
  - v. Alternative routes for addressing the complaint

3. At any time in the informal or formal complaint process, mediation is an option for the Complainant and Respondent, if both parties agree.
4. Both the Complainant and Respondent have the right to seek representation from a union or professional organization, or another individual at no cost to the Division.
5. The Complainant and the Respondent are encouraged to co-operate with the investigation and resolution of the complaint.

**C. Confidentiality and Privacy of Information**

1. All persons are urged to keep the matter confidential and Pembina Hills Public Schools will make reasonable efforts to respect the confidential nature of a complaint made under this AP. However, anonymity and complete confidentiality cannot be guaranteed once a complaint is made. Information collected and retained as part of an investigation may be subject to release as part of a legal process or under the *Freedom of Information and Protection of Privacy Act*.
2. To respect the requirements of legislation, and the requirement that the process be fair to all parties, the following general principles will guide the release by Pembina Hills Public Schools of written information:

*General principles of entitlement to information*

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

*Exceptions to the entitlement to information*

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

**D. Roles and Responsibilities**

1. All staff members share responsibility for creating and maintaining a learning and work environment that is free of harassment.
2. All contractors with Pembina Hills Public Schools shall be made aware of this AP.
3. School Principals and Site Administrators are responsible for creating, supporting and maintaining a positive work and learning environment. This means, but is not limited to being informed themselves and informing the staff about the content of Policy 19 and this AP, and supporting an awareness of harassment in general.
4. The Assistant Superintendent – Employee Services or designate is responsible for ensuring the implementation of and compliance with Policy 19 and this AP. The Assistant Superintendent of Employee Services:

- receives and responds to inquiries about discrimination and harassment
- provides information about process, including, if appropriate, strategies to resolve complaints informally
- advises complainant of their right to contact their union or professional association, if complainant is a union member
- receives formal complaints
- reviews formal complaints to assess adequacy of information, and secures additional information if needed
- determines if the matter has been previously investigated and dismissed, and if this is the case, advises the complainant that the matter is considered closed
- channels complaints that do not fit the definition of harassment into other processes e.g. conflict resolution, employee assistance, informal mediation, legal action
- advises the complainant of the next steps in the process
- arranges for an investigator when the complaint cannot be dealt with through informal processes

Should a complaint be dismissed by the Assistant Superintendent - Employee Services, the complainant may appeal it to the Superintendent for review. The Superintendent's ruling on the matter shall be final.

## **E. The Process - Staff Members**

### **Direct Action**

1. Individuals who experience perceived Prohibited Behaviour are strongly encouraged to take direct action by advising the Respondent at the earliest time possible that their actions are of concern or offensive.
2. The potential Complainant may choose to communicate dissatisfaction or concern to the Respondent in writing, rather than communicating verbally.
3. Persons using this process should keep a record of all the incidents and the way in which they were handled. This record will help the accurate reporting of events and how they were managed over time.

### **Informal Complaint**

All those covered by this AP may complain about Prohibited behaviour and may access the complaint procedure. Informal resolution is a procedure that provides an opportunity for parties to resolve a dispute mutually in a respectful manner.

1. If an individual is not comfortable confronting the person whose actions they find offensive, or if the actions do not stop after they have confronted the individual, the next step is to proceed with an informal complaint. This means that the individual will approach a third party to help find a resolution to the problem. Teachers who have a complaint against another teacher should seek advice on how to address the situation from a staff officer in Member Services, Alberta Teachers' Association, to ensure they are in compliance with the Code of Professional Conduct. Similarly, CUPE members are advised to contact their union to ensure compliance with the [CUPE Equality Statement and Membership Oath of Obligation](#). The following individuals can also assist by providing information about the process for dealing with an informal complaint:
  - i. supervisor
  - ii. respondent's supervisor
  - iii. trusted person in authority

- iv. School Principal or a site administrator
  - v. Assistant Superintendent, Employee Services
2. Every attempt should be made to resolve the situation informally. For example, any of the parties listed above may intervene on the Complainant's behalf by arranging for the Complainant and Respondent to come together to resolve the matter, providing mediation or by advising the Complainant of other options.
  3. If the Prohibited Behaviour continues, the Complainant should involve the supervisor to resolve the complaint. Once apprised of the situation, supervisory and/or managerial personnel must address and attempt to resolve complaints under Policy 19 and this AP in a timely fashion.
  4. In cases where an informal plan of action is implemented, supervisory and/or managerial personnel shall follow up by monitoring the situation, holding, if necessary, subsequent meetings with the parties and taking further steps to ensure that the harassment has stopped.
  5. Persons using the informal process should keep a record of all incidents and the way in which they were handled.
  6. If this does not successfully resolve the issue, the Complainant may choose to initiate a Formal Complaint. It is not necessary to initiate an Informal Complaint before filing a Formal Complaint. If a Formal Complaint is initiated, it supersedes an Informal Complaint.
  7. At any time after the initiation of an informal complaint, the Complainant may request that no further action be taken. The Complainant still has the option of filing a formal complaint at any time within one year of the incident.
  8. If the supervisor is the party alleged to be responsible for the Prohibited Behaviour, the Complainant may try to have the matter resolved with the assistance of the manager above the supervisor.
  9. The Respondent has the right to request a timely investigation if an informal complaint is initiated, whether or not the complaint is pursued or dropped.
  10. If the informal complaint has not been resolved within two weeks of being made, then the Complainant may file a detailed written formal complaint with the next level of management.

### **Formal Complaint**

1. A Formal Complaint is made in writing and is filed with the Assistant Superintendent – Employee Services within one year of the incident. Under exceptional circumstances, the Superintendent may accept a complaint filed more than one year after the incident.
2. The Assistant Superintendent –Employee Services shall review the complaint to ensure that it is complete, and that a formal complaint is the most appropriate process for achieving resolution. After determining that a complaint is complete and not vexatious, they shall promptly inform the Superintendent, the Respondent, and the supervisors of the Complainant and Respondent about the Formal Complaint. If the complainant is not satisfied with the decision made by the Assistant Superintendent regarding whether the matter should go forward, they may appeal to the Superintendent whose decision will be final.

3. An investigator shall be arranged by Employee Services. Administration will make reasonable efforts to find a mutually acceptable investigator but if this is not possible, the Superintendent will appoint an investigator to ensure that the process is implemented.
4. Attempts to resolve the complaint through conciliation or mediation may continue throughout the process provided that both the complainant and the respondent agree.

### **Investigation**

1. The investigator shall request a detailed written statement from the Complainant (Form 2-20-A). Should the Complainant prefer, the investigator shall interview the Complainant.
2. If the Complainant provides a written statement, the investigator will follow up with an interview of the Complainant (Form 2-20-D).
3. The investigator shall provide the Respondent with the Complainant's written statement and/or written summary of the interview. The Respondent shall be invited to make a written response, or if the Respondent prefers, to respond orally to the investigator. Conversely, the Complainant shall be provided with the Respondent's written statement and/or written summary of the interview and have an opportunity to respond orally or in writing to the investigator.
4. The investigator shall interview the Complainant and Respondent as necessary.
  - a. The investigator shall interview any other persons and gather such other materials as may be necessary for the investigator to conclude the investigation.
  - b. All parties are expected to co-operate with the investigation by being forthcoming, honest and respectful.
  - c. The investigator shall produce a report of fact relating to the complaint made.
  - d. If there is evidence that the complaint was vexatious, or malicious (e.g. a deliberate attempt to avoid supervision, to damage a reputation, to hurt someone), this should be indicated in the report.
  - e. The investigator's report shall be provided to the Superintendent, the Complainant, the Respondent, and the Assistant Superintendent – Employee Services, within 60 days of the filing of the formal complaint. The Superintendent may extend the timeline for the submission of the report. The Complainant and Respondent may then submit a response in writing to the Superintendent within 10 working days of receiving the investigator's report. The report will indicate whether or not there is evidence to support the complainant.

### **Outcome**

1. If the investigation reveals evidence to support the complaint of discrimination, harassment or bullying, the respondent will be disciplined appropriately. Discipline may include one or more of:
  - i. direction to make a formal apology
  - ii. a written reprimand
  - iii. referral to counselling
  - iv. transfer
  - v. withholding of a promotion
  - vi. demotion
  - vii. suspension or termination
  - viii. any other measures as determined appropriate by the Superintendent

2. If the investigation does not find evidence to support the complaint of discrimination, harassment or bullying, there will be no documentation concerning the complaint placed on the respondent's file.
3. Regardless of the outcome of the investigation, if the complaint was made in good faith, and is not found to be vexatious, the complainant will not be disciplined.
4. The complainant and anyone who provides information will be protected from any form of retaliation from either co-workers or superiors under this AP.
5. In the event that it is determined that the complaint was vexatious or malicious, the complainant may be subject to discipline.

The foregoing does not prohibit a person who is being harassed (employee, volunteer, person providing goods and services, or student) from making a complaint directly to the local police detachment if the matter is perceived to be of a criminal nature, or to the Alberta Human Rights and Citizenship Commission Phone: 780-427-7661 or toll-free within Alberta 310-0000 and then enter the area code and phone number.

## **Reference**

[Education Act – Sections 1\(1\)d](#)

[Alberta Human Rights Act – Section 3](#)

[Freedom of Information and Protection of Privacy Act](#)

[Policy 19 Welcoming, Caring, Respectful, and Safe Environments](#)

[AP 50-09 Student Code of Conduct](#)

[Form 2-20-A – Respectful Working & Learning Environments Complaint Form](#)

[Form 2-20-B – Respectful Working & Learning Environments Response Form](#)

[Form 2-20-C – Respectful Working & Learning Environments Witness Response Form](#)

[Form 2-20-D – Respectful Working & Learning Environments Summary Form](#)