

Fort McMurray Catholic Schools Operating Policies and Procedures

OP 102 – Sexual and Personal Harassment

Policy

Sexual and personal harassment will not be tolerated in the workplace and at school.

Definitions

In this policy:

- a. **“hostile or poisonous environment”** means a learning and working environment in which the actions of one or more people may not be directed at any person in particular but contribute to an atmosphere which directly or indirectly affects a person’s ability to work or learn effectively;
- b. **“investigator”** means a person appointed by the Deputy Superintendent to investigate a complaint.
- c. **“sexual harassment”** means any unwelcome behaviour either intentional or unintentional which is sexual in nature which may directly or indirectly affect or threaten to affect in an adverse manner a person’s job security, prospects, promotion, earnings, or working conditions and includes but is not limited to:
 - i. unwelcome physical contact;
 - ii. unwelcome remarks or compromising invitations or requests;
 - iii. verbal abuse or display of suggestive pictures;
 - iv. Leering, whistling, innuendoes, jokes or other behaviours or gestures of a sexual nature;
 - v. demands for sexual favours;
 - vi. stalking;
 - vii. embarrassing, suggestive or threatening language;
 - viii. displays of pornographic materials; and
 - ix. behaviour which supports a hostile or poisonous environment;
- d. **“personal harassment”** means any behaviour either intentional or unintentional that disparages, humiliates or harms another person, or denies an individual’s

dignity and respect and is demeaning or humiliating to another person including but not limited to:

- i. references related to disability, race, creed, culture, nationality, religion, sexual or gender orientation, gender identity and gender expression;
- ii. intimidation, threats, ostracism, offensive gestures, offensive remarks or jokes and bullying;
- iii. intimidation, threats, offensive gestures, offensive remarks or jokes and bullying.

but not including supervision and performance evaluation actions and processes undertaken in good faith in accordance with Board Policies and procedures, the School Act and Ministerial Orders under the School Act;

Procedures

The purpose of this procedure is to provide formal and informal ways to ensure a working and learning environment free of personal or sexual harassment.

PART 1 - CONDUCT

Conduct and behaviour

Personal or sexual harassment by any employee, student, parent or volunteer against another employee, student, parent or volunteer is strictly prohibited and will not be tolerated.

Employees, students, parents, volunteers and visitors must conduct themselves in a manner which promotes and protects the best interests and well being of students, staff, co-workers, parents, volunteers or visitors.

An employee, parent or volunteer who subjects an employee, parent, volunteer or visitor to personal or sexual harassment may be subject to disciplinary action up to and including dismissal from employment or exclusion from school.

A student who harasses another student, an employee, parent, volunteer or visitor may be subject to disciplinary action up to and including expulsion.

Action may be taken against members of the public whose conduct has resulted in personal or sexual harassment of students, employees, or representatives of the Fort McMurray Catholic Board of Education.

Appendix A includes examples of behaviour which are, which may be, and which are not personal or sexual harassment.

All Supervisors are responsible to:

- a. inform themselves and their employees, volunteers and visitors of this policy;
- b. take immediate and appropriate action to address harassment and sexual harassment up to and including referral of the complaint to the Deputy Superintendent.

Retaliation

Any retaliation against an individual for:

- a. invoking this regulation whether on their own behalf or on behalf of another individual,
- b. participating or cooperating in any investigation under this regulation, or associating with a person who has invoked this regulation or participated in procedures under this regulation, and
- c. is strictly prohibited and will be subject to discipline, up to and including dismissal, or exclusion from school or in the case of a student, expulsion.

If an individual believes they have experienced retaliation, they must inform their supervisor, Principal or the Deputy Superintendent about the exact nature of the behaviour.

The supervisor, Principal or the Deputy Superintendent may initiate an investigation into the allegations of retaliation.

False accusations

If an investigation determines that a complainant, other than a student, falsely accused another of personal or sexual harassment knowingly or in a malicious or vindictive manner, the complainant may be subject to disciplinary action, up to and including dismissal or legal action.

If an investigation determines that a student falsely accused another of objectionable conduct knowingly or in a malicious manner, the student may be subject to disciplinary action, up to and including expulsion.

PART 2 – COMPLAINTS

Complainant's responsibility

Individuals who believe they have been the subject of personal and sexual harassment by a District's employee, student or volunteer should make their objection known clearly to the offender or the person in authority.

It is preferable that objections to harassment be voiced to the offender, but it is not a prerequisite to making a complaint.

Students may obtain advice or assistance regarding strategies designed to address peer harassment or teacher/student harassment by contacting a teacher, a counsellor, or the principal.

Any harassment complaint must be made within a reasonable time from the date the last incident occurred.

The Board reserves the right not to consider a Personal and Sexual harassment complaint based on facts which occurred more than one year before the date of complaint.

Harassment inquiries or complaints are confidential and may only be disclosed

- a. to investigate and respond to an inquiry or complaint, and
- b. to advise the respondent about the complaint and the identity of the complainant.

Any unauthorized disclosure of confidential information relating to a harassment inquiry or complaint may result in disciplinary action.

Employee records

All records of a harassment or retaliation investigation must be kept separate from the respondent employee's record of service file except where the complaint is determined to be true.

If the complaint is determined to be true, the record of the investigation and final disposition will be kept in the respondent's file.

After a period of five (5) years, from the date the complaint is resolved, the respondent may request that all related material be removed from the employee's record of service file.

The decision to remove the information from the employee's record of service file is at the discretion of the Deputy Superintendent.

If the investigation fails to disclose evidence to support the complaint, no record of the complaint can be kept in the employee's record of service file and the Deputy Superintendent will provide a formal letter to the respondent confirming that the complaint has been dismissed.

Student records

Student records must be kept in accordance with the Student Records regulations.

PART 3 - INVESTIGATIONS

Personal and sexual harassment

In the event of personal and sexual harassment, the matter may proceed through either an informal or formal resolution. The individual who believes they are the target of harassment, the Deputy Superintendent, or in the case of students, the Principal, may make the decision to pursue either an informal or formal resolution.

Procedure for informal resolution

An individual may resolve a personal or sexual harassment complaint by any one or all of the following methods:

- a. informing the respondent that the actions are unwelcome and must stop immediately;
- b. requesting a colleague, administrator or supervisor to provide informal intervention towards an acceptable resolution of the situation, and
- c. keeping a record of incidents including dates, times, locations, possible witnesses, description of incidents, personal response and the resulting outcome.

If the complaint is not resolved by an informal resolution, the parties may initiate a formal resolution of the complaint.

School resolutions (student to student)

Where a student makes a complaint of harassment against another student, a school official in consultation with the student complainant, will determine whether to pursue a formal or informal resolution.

Where a school official determines that the complaint will be resolved formally the school official:

- a. will inform the student respondent that a complaint has been received;
- b. will conduct an investigation which may consist of personal interviews with the student complainant, the student respondent and others who may have knowledge of the incidents or circumstances that led to the complaint; and
- c. the parents or guardians of the student complainant and student respondent will be contacted at an appropriate point during the investigation.

Where the school official finds that the complaint is valid, the school official will refer the matter to the Principal for an appropriate disciplinary action.

Upon completion of the investigation, the school official must communicate the results to both parties or to the parents or guardians as the case may be.

Formal resolution

The formal process of complaint resolution may be pursued if:

- a. the informal process does not resolve the situation, or
- b. the complainant or the Deputy Superintendent believes that the formal process is more appropriate.

If, at any point in the formal resolution, consensus is reached between the parties that an informal resolution is more appropriate, the formal resolution is suspended until the formal resolution is concluded.

A complainant must submit a formal complaint in writing to the Deputy Superintendent, and if the complaint is made against the Deputy Superintendent, the complainant must submit the complaint in writing to the Superintendent of Schools.

Alternative methods for filing a complaint such as tape recorders or scribes, are acceptable in the case of a complainant:

- a. Whose ability to read or write the English language is limited,
- b. who has a disability or condition which affects their ability to communicate, or
- c. who is a student who requires accommodation.

If an investigation is determined to be necessary, the Deputy Superintendent must:

- a. advise the respondent, in writing, of the nature and specifics of the complaint, of their rights to representation and of the investigation;
- b. advise the complainant of the investigation, and
- c. assign the investigation to an investigator.

As part of the investigation, the investigator will interview the complainant, the respondent and others who may have knowledge of the incidents or circumstances that led to the complaint, either in person or by telephone.

The investigator will make a written report with the findings of the investigation to the Deputy Superintendent thirty(30) working days from the date the respondent is advised of the complaint.

The Deputy Superintendent must make a decision to dismiss or act upon the report within thirty (30) working days from the date the respondent is advised of the complaint.

The Deputy Superintendent or designate must advise the complainant and the respondent of the outcome of the investigation and any subsequent action taken.

Right of review

An individual other than a student complainant, who has made a complaint and is not satisfied with the results of the formal resolution may:

- a. for those matters which are covered either by a collective agreement or employment practice and procedures document, pursue any remedy or appeal in accordance with the grievance or appeal procedure outlined in the appropriate collective agreement or employment practices and procedures document, or
- b. in those instances where the matter is not covered by a collective agreement or employment practices and procedures documents, request a review in writing to the Superintendent of Schools within ten (10) working days of receiving the result of the formal investigation.

The Superintendent of Schools must respond in writing to the individual within (30) working days of receiving the request for a review.

PART 4 – OTHER ACTIONS

Support services

The Deputy Superintendent may provide support services for

- a. victims in harassment situations, or
- b. the respondent employee where the allegations of harassment are dismissed.

Independent Investigations

In the absence of a specific complaint the Deputy Superintendent may recommend an independent investigation where:

- a. there is a pattern of inquiries or complaints over time which suggests the existence of a specific problem, which has been identified but not corrected;
- b. there is reason to believe that a broader, systemic problem exists in the learning and working environment which causes, contributes to or encourages harassment;
- c. as the result of an investigation, a specific complaint is not supported but there is reasonable evidence that a broader systemic problem exists, or

d. in any other circumstances the Deputy Superintendent deems it appropriate.

Before initiating an independent investigation, the Deputy Superintendent will provide the Superintendent of Schools with a summary providing reasonable grounds for recommending an independent investigation.

If the Superintendent of Schools approves an independent investigation, the Deputy Superintendent must:

- a. appoint an investigator, and
- b. advise the parties:
 - i. of the independent investigation
 - ii. the reason for initiating the investigation,
 - iii. the name of the investigator, and
 - iv. the process and procedures which will be used in the investigation.

Other actions

This regulation does not affect an individual's right to file a complaint or to respond to a complaint with the Alberta Human Rights and Citizenship Commission or to seek other redress as may be provided by law, or by an employee's union or association.

References: <ul style="list-style-type: none">• Occupational Health and Safety Act,• Occupational Health and Safety Code – Part 5 (Confined Space),• Workplace Health and Safety Bulletin: Guideline for Developing a Code of Practice for Confined Space Entry• Handbook for the Prevention and Management of Critical Incidents• Board Governance Policy EL # 1, EL # 2	Approved:
	<i>Date Approved:</i> <i>August 24, 2009</i>
Cross References: OP 150,152,153,154, 333	Date Revised: March 4, 2016