

PUBLIC SCHOOLS BRANCH OPERATIONAL POLICY

RESPECTFUL WORKPLACE	
<i>Policy Section</i> Programs and Services	<i>Policy Number</i> 505
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Replaces: PSB Operational Policy 505 – Respectful Workplace, October 7, 2020	

1.0 PURPOSE

- 1.1 The Public Schools Branch has developed a Respectful Workplace policy to:
 - 1.1.1 recognize that all employees are entitled to a respectful work environment free of disrespectful behaviour.
 - 1.1.2 ensure, as far as is reasonably practicable, that no employee will be subjected to disrespectful behavior in the workplace;
 - 1.1.3 provide procedures for investigating and resolving informal and formal complaints of disrespectful behaviour, and remedying situations where instances of disrespectful behaviour occur; and
 - 1.1.4 take remedial action respecting any person under the Employer’s direction who subjects an employee to disrespectful behavior.

2.0 APPLICATION

- 2.1 This policy applies to all current employees who perform work in any Public Schools Branch workplace.
- 2.2 Where applicable, the policy also applies to parents/guardians, volunteers, contractors, and any other clients.

3.0 POLICY STATEMENT

- 3.1 The Public Schools Branch is committed to providing a workplace in which all persons can expect to be treated with dignity and respect. Disrespectful behaviour may undermine an individual's self-respect and adversely affects work performance and well-being. It also reduces the productivity and effectiveness of the organization. All employees are entitled to a respectful work environment free of disrespectful behaviour.
- 3.2 Complaints will be addressed through an informal or formal resolution process as per this policy.

4.0 DEFINITIONS

- 4.1 Complainant – Any person who makes a complaint of disrespectful behaviour, or who brings an incident of disrespectful behaviour to the attention of the employer under this policy.
- 4.2 Complaint – An allegation of disrespectful behaviour which is based on actions

defined as disrespectful behaviour in this policy.

- 4.3 Disrespectful behaviour – Actions or comments that are inappropriate, demeaning or otherwise offensive and which create an uncomfortable, hostile and/or intimidating work environment. Types of behaviours considered disrespectful include:
- Discrimination;
 - Harassment (sexual harassment, personal harassment, and abuse of authority); and
 - Workplace violence.
- Disrespectful behaviour does not include:
- Any reasonable action taken by the Public Schools Branch or supervisor relating to the management and direction of the employees (e.g. performance reviews, or work evaluations);
 - Impositions of authorized and appropriate discipline;
 - Other routine interaction, including interpersonal conflicts or difficulties from time to time, short of harassment defined below; or
 - Curtness or lack of friendliness unless that curtness or lack of friendliness is so persistent or intense and individualized that it creates an uncomfortable, hostile and/or intimidating work environment, or constitutes harassment.
- 4.4 Employer – The Public Schools Branch.
- 4.5 Formal Resolution Process – The process to deal with a complaint of disrespectful behaviour between Public Schools Branch employees as outlined in Section 10 of this policy.
- 4.6 Harassment – Any improper and unwelcomed behaviour directed at a person that is offensive and/or harmful and could have a harmful effect on a person's psychological or physical health. Harassment can include persistent, aggressive or unreasonable behaviour. Harassment can be perpetrated in person (i.e. face-to-face) or can take place electronically (i.e. including, but not limited to, text messages, social media, or email).
- a) Personal Harassment – Any unwarranted, offensive behaviour that is known or ought reasonably to be known to be unwelcome. It includes any inappropriate comment, conduct, gesture or display that does or is intended to demean, intimidate, bully or cause embarrassment to another person. Personal harassment includes but is not limited to harassment on the basis of age, color, creed, disability, ethnic or national origin, family status, gender expression, gender identity, physical size or weight, marital status, political belief, race, religion, sex, sexual orientation, pregnancy, or source of income.
- b) Sexual Harassment – Any conduct, comment, gesture or contact of a sexual nature that is likely to cause offense, embarrassment or humiliation to the recipient; or that might, on reasonable grounds, be perceived by the recipient as placing a condition of a sexual nature on employment or on any opportunity for training or promotion, or on receipt of a service or benefit provided by the Employer. Sexual harassment in the workplace is broadly defined as unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences for the victim. Sexual harassment includes but is not limited to, sexual solicitations or advances, sexually suggestive remarks, jokes or gestures, circulating or sharing inappropriate images, and unwanted physical contact. It is not flirtation, chit chat or good-natured jesting that is sometimes part of

- office life when both parties find the conduct acceptable.
- c) Abuse of Authority – Where an individual holds a position with inherent power and authority, and they use that power or authority in a manner which serves no legitimate work purpose, and which is, or ought reasonably to be known to be, inappropriate. It includes but is not limited to, misuses of power which are intimidating, coercive or demeaning. The legitimate and proper exercise of the employer's right to supervise or manage (for example, performance reviews, work evaluation and disciplinary measures taken for any valid reason) does not constitute harassment under this policy.
- 4.7 Informal Resolution Process – The process to deal with a complaint of disrespectful behaviour between Public Schools Branch employees or between a Public Schools Branch employee and a non-employee (parent/guardian, volunteer, contractor, etc.) as outlined in Section 9 of this policy.
 - 4.8 Investigative Team – An individual or a team of individuals appointed by the Director of Human Resources or designate for the purpose of investigating a complaint under the Formal Resolution Process.
 - 4.9 Mediation – A voluntary process used to resolve conflict by having a neutral person help the disputing parties arrive at a mutually acceptable solution and may include professional mediation services.
 - 4.10 Respectful Workplace – A Public Schools Branch workplace that is free from disrespectful behaviour.
 - 4.11 Respondent – Any person against whom a complaint has been made under this policy.
 - 4.12 Supervisor – A person who has supervisory responsibilities for an employee within the Public Schools Branch (ex. Directors, Principals, Managers, etc.).
 - 4.13 Workplace – All property owned, managed, and/or occupied by the employer, and every location where the employer maintains an office or facilities or otherwise assigns employees to perform regular duties of their position, including in-transit between one or more workplaces. Workplace may also include, but is not limited to; business travel, training sessions, conferences, the employee or client's home (if deemed a workplace), lunchrooms or cafeterias, work-related social gatherings/staff parties, or other location where an employee is engaged in activity associated with employment, including on-line communication (i.e., emails, social media, phone calls, etc.).

5.0 RESPONSIBILITIES

Employees have the right to work in a respectful workplace. While it is recognized that all employees play a role in creating a respectful workplace, it is important to emphasize that supervisors, by virtue of their authority, carry a greater responsibility for maintaining this type of work environment.

5.1 Employer

As the employer, the Public Schools Branch shall develop and implement a written policy to prevent and investigate disrespectful behaviour in the workplace that includes:

- a) a definition of harassment that is consistent with the *Occupational Health and Safety Act* Workplace Harassment Regulations;
- b) a statement that every employee is entitled to a workplace free of disrespectful behaviour; and
- c) a commitment that the employer shall ensure, as far as is reasonably practicable, that no employee will be subjected to disrespectful behaviour in the

workplace.

5.2 Director of the Public Schools Branch

The Director of the Public Schools Branch is responsible for ensuring that the provisions of this policy are implemented in the organization. These responsibilities include:

- a) ensuring that all supervisors in the organization are informed of the policy and are advised of their responsibilities and rights;
- b) providing leadership in the prevention of disrespectful behaviour in the workplace by fostering a climate of mutual respect;
- c) monitoring compliance with the policy in the organization;
- d) ensuring that prompt and appropriate action is taken when aware of an instance of disrespectful behaviour;
- e) ensuring fair and equitable procedures for all parties to a complaint of disrespectful behaviour; and
- f) taking disciplinary or other corrective measures, where necessary.

5.3 Director of Human Resources

In the event the Director of Human Resources is the respondent in a complaint, the Director will assume the Director of Human Resource's responsibilities and roles under this policy. In addition to overseeing the investigation process when a formal complaint has been made under this policy, the Director of Human Resources is responsible for:

- a) providing opportunities for education and training related to disrespectful behaviours to all employees;
- b) receiving formal complaints under this policy;
- c) appointing members of an Investigative Team, by way of an appointment letter, to investigate a formal complaint under this policy;
- d) considering and making determinations on objections relating to appointments of individuals to an Investigative Team;
- e) consulting with the Investigative Team to set a reasonable time frame to begin the investigation;
- f) reviewing the findings and recommendations from the investigation;
- g) determining any recommendations to be implemented and appropriate action to be taken, in consultation with the Director of the Public Schools Branch; and
- h) ensuring the parties are informed of the outcome in a timely fashion.

5.4 Supervisor

A Supervisor is responsible for incorporating the intent of this policy in their daily activities and ensuring that the policy is adhered to in their areas of responsibility by:

- a) becoming fully informed of the provisions of the policy;
- b) maintaining a high standard of personal conduct in their dealings with all employees;
- c) ensuring that all employees under their supervision are aware of their rights and responsibilities under this policy and the courses of action open to them;
- d) ensuring that prompt and appropriate action is taken when a complaint is received;
- e) supporting employees in any procedures under this policy; and
- f) monitoring and tracking complaints.

5.5 Investigative Team

The Investigative Team is responsible for:

- a) ensuring all parties involved in a complaint have been informed of their rights and responsibilities under this policy;
- b) interviewing the parties and any witnesses;
- c) collecting all pertinent evidence;
- d) ensuring the investigation is completed in a timely fashion taking into account particular circumstances;
- e) preparing the investigation report which will include a description of the allegation(s), the response of the respondent, a summary of information learned from witnesses (if applicable), a review and analysis of the evidence, applicable laws and/or policies relied upon, credibility assessments and a decision regarding whether, on a balance of probabilities, the complaint is substantiated. The report may include recommendations, if requested, and will be submitted to the Director of Human Resources;
- f) preparing a summary report which will include a summary of the allegations and findings;
- g) determining whether the complaint is substantiated; and
- h) making recommendations to the Director of Human Resources, if requested.

5.6 Employee

An employee is responsible for:

- a) supporting a work environment free of disrespectful behaviour by complying with this policy and ensuring their behaviour meets reasonable standards as outlined in this policy;
- b) treating all persons in the workplace in a manner that is free from disrespectful behaviour;
- c) becoming fully informed of the provisions of the policy;
- d) analyzing and changing their own behaviour when given indications that the behaviour is offensive or disrespectful to others;
- e) taking action, where possible and in accordance with this policy, where they feel they or another person have been or are being subjected to disrespectful behaviour; and
- f) cooperating fully with all those responsible for dealing with a complaint of disrespectful behaviour.

5.7 Complainant

A Complainant is responsible for:

- a) making known as soon as possible and safe, their perception of experiencing disrespectful behaviour in accordance with section 9 or 10 of this policy;
- b) following this policy;
- c) cooperating with all those responsible for dealing with the investigation of the complaint; and
- d) maintaining confidentiality as outlined in section 7 of this policy.

5.8 Respondent

A Respondent is responsible for:

- a) following this policy;
- b) cooperating with all those responsible for dealing with the investigation of the complaint; and
- c) maintaining confidentiality as outlined in section 7 of this policy.

5.9 Witness

A witness is responsible for:

- a) meeting with the Investigative Team and cooperating with all those responsible for the investigation of the complaint; and
- b) maintaining confidentiality as outlined in section 7 of this policy.

6.0 PARAMETERS

- 6.1 All employees shall be treated equitably under this policy and shall be advised of the provisions of this policy. All matters arising under this policy shall be dealt with in a fair, unbiased and timely manner.
- 6.2 The PSB will not tolerate and will immediately address any instance of bullying or harassment, including cyber bullying directed at employees by parents, volunteers or third parties, in accordance with the Social Media and Digital Messaging Guidelines.
- 6.3 Either party to a complaint may object to a person appointed by the Director of Human Resources to the Investigative Team on grounds of conflict of interest or reasonable apprehension of bias. The Director of Human Resources will consider and make a determination on the objection.
- 6.4 Any Complainant who wishes to seek resolution of a complaint must be prepared where necessary, to be identified to the Respondent.
- 6.5 All parties must be given the opportunity to present evidence in support of their positions and to defend themselves in relation to allegations of disrespectful behaviour.
- 6.6 All parties may be accompanied by a union representative, if applicable, or other mutually agreed upon support person throughout the processes set out in this policy.
- 6.7 All formal complaints, and decisions pursuant to this policy shall be made in writing.
- 6.8 Employees with supervisory responsibilities will take immediate action to report or deal with incidents of disrespectful behaviour that are brought to their attention, whether or not a formal complaint has been made.
- 6.9 No employee or witnesses shall face negative consequences for exercising their rights under this policy in good faith.

7.0 CONFIDENTIALITY

- 7.1 All complaints under this policy, both formal and informal, and any information and materials related to the complaints will be treated on a confidential basis.
- 7.2 An employee shall keep the details of a complaint of disrespectful behaviour confidential unless, and to the extent that, disclosure is necessary in order to report the incident or to cooperate in the investigation of the complaint in accordance with this policy.
- 7.3 Disclosure might be required pursuant to a subpoena, the *Freedom of Information and Protection of Privacy Act*, those who need to know as part of their employment, or otherwise as required by law.

8.0 ASSISTANCE

- 8.1 A person who is faced with problems relating to disrespectful behaviour in the workplace may wish to obtain assistance or advice in deciding the best course of action to follow. Sources of assistance are recommended below. Employees will be provided assistance from any of the following:
- a) their immediate supervisor or departmental director, if appropriate;
 - b) the Director of Human Resource; or
 - c) a union representative, if applicable.
- 8.2 It should be recognized that the employer has an obligation to take follow-up action, as it deems appropriate, when instances of possible disrespectful behaviour are brought to its attention.
- 8.3 Confidential assistance to employees for a wide range of issues is available from the Employee Assistance Program.
- 8.4 Non-employees may seek advice or assistance from the school principal or the Director of Human Resources.

9.0 INFORMAL RESOLUTION PROCESS

- 9.1 The objective of an informal resolution process is to resolve disrespectful behaviour as soon as possible, at the lowest possible level of resolution, in a fair and respectful manner without having to resort to the formal resolution process. Every effort should be made to resolve problems early, with direct and open communication and in a cooperative manner.
- 9.2 In many instances, issues can be resolved informally preventing situations from escalating to the point where filing a formal complaint is necessary, by using resolution mechanisms such as:
- a) one-on-one discussion
 - b) management involvement
 - c) internal or external provided coaching, counselling, and mediation
- 9.3 It is important that the Complainant make the issue known to the Respondent as soon as possible in an attempt to resolve the problem.
- a) If the Complainant feels comfortable, they should do so directly, either in person or in writing.
 - b) If the Complainant feels uncomfortable, they should do so with help from their supervisor or Human Resources staff person.
- 9.4 If the problem is not resolved, the Complainant may seek support from those identified in section 8.1, and/or file a formal complaint.

10.0 FORMAL RESOLUTION PROCESS

- 10.1 If an informal resolution is not successful, is not desired or is not considered appropriate by either party, the Complainant has the right to file a formal complaint.

Step 1 - Filing a Formal Complaint

- a) The Complainant will submit a formal complaint in writing using the Respectful Workplace Complaint Form (Appendix A) to the Director of Human Resources, or to the Assistant Director if the Director of Human Resources is the Respondent.

- b) Complaints should be submitted in as timely a manner, as is comfortable for the Complainant, keeping in mind that the more time that elapses, the more difficult it might be to substantiate the complaint.
- c) The Director of Human Resources will acknowledge receipt of the complaint in writing and will advise the Complainant of any next steps.
- d) The Director of Human Resources will inform the Respondent in writing, that a complaint has been made and of any next steps.
- e) The Director of Human Resources, after consultation with the Director of the Public Schools Branch may enact interim measures, if appropriate.

Step 2 – Investigation

- a) All investigations will be conducted by a team of 1-3 persons. The composition of the Investigative Team will be decided by the Director of Human Resources. Factors such as gender, perception of bias, and experience & training in investigations will be considered when determining the composition of the team.
- b) Once the Investigative Team has been appointed, contact will be initiated with the Complainant and the Respondent within 30 working days. During the investigation process the Investigative Team will interview and obtain statements from the Complainant, the Respondent, and any witnesses.
- c) At the end of the investigation, the Investigative Team will submit a final report to the Director of Human Resources. This report will include:
 - i. A description of the allegations
 - ii. The response of the respondent
 - iii. A summary of information learned from witnesses (if applicable)
 - iv. A review and analysis of the evidence
 - v. Applicable laws and/or policies relied upon
 - vi. Credibility assessments
 - vii. A decision regarding whether, on a balance of probabilities, the harassment complaint is substantiated
 - viii. This report may also include recommendations, if requested.
- d) Records of a formal complaint and any supporting documentation will be kept in a confidential file by the Human Resources Department. Only in the event of discipline will any record of the complaint be kept in the applicable personnel file.

Step 3 – Final Decision

- a) After reviewing the report and any recommendations submitted by the Investigative Team, the Director of Human Resources, in consultation with the Director of the Public Schools Branch, will determine the corrective measures to be taken, including but not limited to mediation and discipline.
- b) The Director of Human Resources will notify the Complainant and Respondent of the results of the investigation in writing. Any resulting actions will be communicated to the Complainant and Respondent.

Step 4 - Conclusion

- a) To falsely accuse someone of disrespectful behaviour is a serious offence. When an allegation under this policy is not substantiated and is determined

through an investigation to be a frivolous or vexatious claim, disciplinary action deemed appropriate will be taken against the individual making the false allegations.

- b) No disciplinary action will be taken against an employee for making a complaint under this policy in good faith, whether or not the complaint is substantiated.

Appeals

- a) If dissatisfied with the decision made pursuant to this policy, an employee may appeal the decision through the grievance procedures of the applicable collective agreement, or to the PEI Public Service Commission, if the employee is an excluded employee.
- b) This policy does not deny or limit access to other avenues of redress available under the law (i.e. criminal complaint, civil suit, or a complaint under the *Human Rights Act* R.S.P.E.I. 1988, Cap. H-12).
- c) The Director of Human Resources may direct the Investigative Team to postpone or suspend or cancel an investigation should any of these other avenues of redress be pursued.
- d) Sexual or other forms of assault are covered under the Criminal Code. In these instances, the police can be asked to lay criminal charges. Sexual and other forms of assault are serious criminal offences that should be reported to the police.

11.0 APPENDICES

- 11.1 Appendix A – Respectful Workplace Complaint Form

12.0 CROSS REFERENCE

- 12.1 Operational Policy 605 - Safe and Caring Learning Environments
- 12.2 Operational Procedure 605.1 - Safe and Caring Learning Environments
- 12.3 Operational Guideline 105.1 - Social Media and Digital Messaging
- 12.4 Operational Procedure 102.1 - Concerns and Resolutions
- 12.5 *Education Act*
- 12.6 *Occupational Health and Safety Act*
- 12.7 *Workplace Harassment Regulations*
- 12.8 *Human Rights Act*

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