



AP 451 – SEXUAL HARASSMENT

BACKGROUND

Saskatoon Public Schools are responsible for the protection of each employee's human rights and dignity. Sexual harassment is contrary to the Human Rights Code and the provisions of collective bargaining agreements between the division and its various employee groups. Sexual harassment of any employee is an intolerable situation which shall warrant disciplinary action up to and including termination of employment. The division also recognizes its duty to provide employees with education about sexual harassment.

DEFINITION

Sexual harassment in the workplace can be defined as any unwanted sexual advance, request for sexual favours, or other verbal or physical contact of a sexual nature which threatens job security, affects advancement opportunities or negatively impacts on the working conditions or employment atmosphere in which any employee works.

Sexual harassment can include such things as pinching, vulgar language, patting, rubbing, leering, dirty jokes, pornographic pictures or materials, demeaning comments related to a person's gender, sexual orientation and suggestions/innuendoes, requests or demands of a sexual nature.

Any of the above behavior need not be intentional in order to be considered sexual harassment. If any of the above are offensive, intimidating or make an employee feel uncomfortable, they would be deemed to be sexual harassment and will not be acceptable behavior within our organization. Sexual harassment will be considered to have taken place if a reasonable person ought to have known that such behavior is unwelcome.

Sexual harassment should not be confused with social interaction. Social interaction between people is based on mutual consent and attraction and does not involve intimidation or negative connotations. Harassment, however, is coercive and one-sided, and leaves one of the parties feeling negative about the experience. When an employee has the perception that submission to a sexual advance is a condition of keeping or obtaining a position, sexual harassment has occurred.

RESPONSIBILITIES

1. Division
The division will actively work towards creating and maintaining a work environment free from sexual harassment. The division will make every effort, consistent with this procedure, to resolve incidents of sexual harassment and provide support and assistance to employees subjected to sexual harassment.
2. Supervisory Staff
Principals and supervisors are obligated to act quickly upon information concerning incidents of sexual harassment.
3. Employees
Each employee has an individual responsibility to support a workplace free from sexual harassment.



4. Other

Students, parents/guardians or other members of the public have a responsibility to refrain from engaging in sexual harassment at the school.

PROCEDURES

1. Sexual harassment may occur either at or away from the usual workplace and could be either on a one-time basis or in a continuous series of incidents. It could involve unwelcome sexual actions by supervisory staff, an employee's peers or those reporting to an employee..

Sexual harassment is an illegal employment practice and is a violation of the law under the province's Human Rights Code and the Saskatchewan Employment Act. As such, it is a serious offence, subject to a range of disciplinary actions up to and including termination.

2. Prevention

- 2.1. Present Employees

At the commencement of each school year, principals shall advise school-based employees of these procedures.

Central office managers and coordinators shall advise their respective employees of these procedures.

- 2.2. New Employees

Human Resources shall advise new employees, as part of their orientation, of these procedures.

- 2.3. Posting of Procedures

A copy of this procedure shall be posted on the division website that is accessible to all employees.

3. Sexual harassment is considered to have taken place if a reasonable person ought to have known that such behavior was unwelcome. If an employee feels they are being sexually harassed, the following actions should be taken:

- 3.1. The harasser should be told that their behavior is unwelcome and asked to stop the behavior.

- 3.2. The employee who feels harassed should keep a record of each or any incident(s) (each offensive suggestion, remark or incident, including dates, times, locations, possible witnesses, what happened, your response). A record of events does not have to be maintained in order to file a complaint, but such a record can strengthen a complainant's case and help a complainant remember details over time

- 3.3. If, after the harasser has been asked to stop their behavior, the harassment continues, the problem should be reported to an appropriate individual as per Section 4 below.

It should be noted that a single occasion of harassment could be reported, if the nature of the incident was so significant and serious as to make it difficult for the complainant to follow the procedure outlined above.

4. Reports of sexual harassment can be made directly to any of the following:

- 4.1. The employee's direct supervisor,



- 4.2. A designated union or association representative (if covered by a collective agreement),
- 4.3. A member of administrative council (superintendent, deputy director, director).

If the report is made to a person listed above, other than the superintendent of human resources, the recipient of the report shall immediately provide the superintendent of human resources with the details of the incident(s) in writing (a report involving a member of administrative council shall be made directly to the director). In order to protect the individuals involved and to maintain the highest level of confidentiality, individuals receiving reports of sexual harassment shall not discuss such reports with other Division staff or administrators.

5. The onus is on the employee to report instances of sexual harassment as soon after the incident as is reasonably possible. Individuals who observe the presence of ongoing harassment in the workplace are encouraged to bring the existence of the harassment to the attention of one of the individuals listed in Section 4.
6. Every effort will be made to ensure that everything is done, to protect staff against complaints or accusations made by other staff members that are trivial, frivolous or made in bad faith. Individuals that have filed a complaint that is found to be made in bad faith may be subject to disciplinary action.
7. Reports of sexual harassment shall be dealt with in strict confidence; however, the complainant must understand that confidentiality must be distinguished from anonymity.
8. Reported cases of sexual harassment shall be investigated by the superintendent of human resources, or designate, in keeping with due process and the rights of the parties involved/affected. Both the complainant and the respondent may be offered assistance through the Employee Assistance Program and either one may be removed from the workplace on a temporary basis while the complaint is being investigated.

The process for investigation of a complaint is as follows:

8.1. Receipt of Complaint

- 8.1.1. receive written complaint
- 8.1.2. interview complainant
- 8.1.3. make a decision to proceed (if not proceeding, a report will be prepared)

8.2. Investigation of Complaint

- 8.2.1. advise and interview respondent
- 8.2.2. interview, if necessary, other individuals
- 8.2.3. review files to determine if the respondent has a previous record of sexual harassment or other related behavior

8.3. Resolution of Complaint

- 8.3.1. prepare a report indicating either:
 - 8.3.1.1. the action and follow up necessary; or
 - 8.3.1.2. the fact that no further follow up is necessary



The superintendent of human resources, upon the completion of the investigation, shall provide a written report to the director along with a recommendation on the action to be taken, if any, as a result of the complaint.

If sexual harassment is found to have occurred, a letter will be placed in the respondent's file with details of the discipline imposed (See Section 10).

If no harassment has been found to have occurred, the parties to the complaint will be notified in writing.

9. At any step of the investigative procedures, the complainant or respondent may choose to be accompanied by a friend, relative, colleague or an association representative.

Sexual harassment is a form of discrimination and therefore employees also have the right to file a complaint with provincial Occupational Health and Safety or the Saskatchewan Human Rights Commission. The complainant will not be discouraged from exercising any other legal rights pursuant to any other law.

10. Following an investigation, appropriate discipline, if warranted, shall be applied in keeping with due process. Such discipline may include verbal warning, written reprimand, transfer, suspension, and/or termination. The procedure for imposition of discipline shall be consistent with the provisions of any applicable collective agreement.

The complainant and the respondent shall be advised as to the disposition of the complaint.

11. If deemed to be sexual harassment, a record of the disposition of the complaint, and a copy of the initial complaint shall be kept in the respondent's file for a period of five years or as prescribed in the applicable collective agreement, and then shall be transferred to a secured confidential file in the office of the superintendent of human resources. The respondent's personnel file shall contain reference to the fact that additional information is contained in the secured confidential file.

If no sexual harassment was found to have occurred, no record of the complaint would be kept in the respondent's file.

A confidential file of all sexual harassment reports shall be maintained in the office of the superintendent of human resources.

12. Any interference or attempt at coercion in the investigative process, by or on behalf of the complainant or respondent, shall be considered grounds for immediate disciplinary action in response to the interference or coercion.

Reference: Saskatchewan Human Rights Code, 2018
Saskatchewan Employment Act, 2013
Education Act, 1995 – Section 85
An Employers Guide for Developing a Harassment Policy, 2016, Government of Saskatchewan

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