

## **OVERVIEW**

The River East Transcona School Division superintendent or designate is responsible for developing and communicating respectful schools and workplaces policies, complaint reporting and complaint resolution procedures within the organization.

Senior administration shall work with all public, employee and other stakeholder groups to:

- recognize disrespectful behaviour;
- report incidents of disrespectful behaviour appropriately;
- participate in complaint handling processes appropriately.

School administration, staff and/or other people in charge at divisional facilities have an obligation to intervene in situations where disrespectful behaviour is directly observed or overheard and shall take all reasonable and practical action to attempt to resolve informal reports of disrespectful behaviour. The names of individuals associated with a respectful school or workplace complaint and/or the circumstances related to the complaint will be held in confidence except where disclosure is:

- necessary to investigate the complaint or take corrective action with respect to the complaint, or
- required by law.

Regardless of River East Transcona School Division respectful workplace protocols, an individual has the right to file a complaint with the Manitoba Human Rights Commission if they believe they have been harassed on any of the grounds set out under *Behaviours that Contravene Provisions of the Human Rights Code* set out below.

The Respectful Schools and Workplaces Policy - Employees is not intended to discourage or prevent an individual from exercising their legal rights pursuant to any other law. Where provisions with respect to disrespectful behaviour (i.e. harassment, unjust discrimination) exist within a collective agreement, the collective agreement provisions will apply.

An employee who believes they have been subjected to disrespectful behaviour in schools or school-based workplaces has the following options available at the school or immediate workplace level to resolve the situation:

- (a) Speak directly with the individual who is believed to be the respondent, tell them to stop the behaviour that the complainant deems offensive and monitor to see if the behaviour stops.
- (b) Seek a mediated resolution of the matter with the participation of the administrator or person in charge, the respondent and/or representative of the

human resources department. If the complaint can be or is resolved to the complainant's satisfaction at the local level described above, then the matter may be dispensed with.

- (c) File a formal written complaint directly with the superintendent, or his designate, forgoing the encouraged procedure of first reporting to their immediate supervisor to seek resolution at the local level.

When determining if disrespectful behaviour has occurred, River East Transcona School Division shall ensure the complaint is reviewed and evaluated from the perception or frame of reference of the direct or indirect receiver of the disrespectful behaviour. All behaviours shall be judged on the basis of their consistency with human rights legislation and respect for human dignity.

If the complainant is not satisfied with the resolution of their complaint, a formal respectful schools and workplaces complaint shall be made in writing to the superintendent or designate detailing:

- Name of the respondent(s).
- Specific details of the alleged incident(s) such as dates, times, specific statements and details regarding the sequence of the disrespectful behaviours and actions.
- Specific offense taken and/or injury incurred resulting from the disrespectful behaviour.
- Witnesses, other than the complainant, to the disrespectful behaviour.
- Corrective action the complainant would like to see implemented in order to resolve the complaint and make them whole and satisfied.

If a person is found culpable of disrespectful behaviour under the Respectful Schools and Workplaces Policy - Employees, the person shall be considered in violation of the policy and be subject to disciplinary and/or corrective action, up to and including termination of employment.

## **DEFINITIONS:**

The River East Transcona School Division adopts the following definitions for the purposes of this Respectful Schools and Workplaces Employees - Regulation:

(1) **Violence:**

Acts or behaviours that include, but not limited to:

- willfully causing harm to a person;
- willful intent to cause harm to a person.

(2) **Horseplay:**

Acts or behaviours that may or may not result in harm to a person, but ought to have been reasonably known that undertaking such acts or behaviours could cause harm to a person.

(3) **Harassment and Sexual Harassment:**

Acts or behaviours that can be considered harassment include, but not limited to:

- (a) Engaging in a course of abusive, vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- (b) A series of objectionable and unwelcome sexual solicitations or advances.
- (c) Sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought to reasonably know that it is unwelcome.
- (d) Reprisal or threat of reprisal for rejecting a sexual solicitation or advance.
- (e) Sexually oriented behaviour or remarks which create a negative psychological environment for work or study such as, but are not restricted to:
  - (i) demeaning remarks based on gender;
  - (ii) suggestive jokes about sex;
  - (iii) inappropriate comments about clothing, physical characteristics or activities;
  - (iv) inappropriate displays of sexual pictures or materials;

- (v) derogatory terms, graffiti which degrades a person based on his/her sex or sexual orientation;
- (vi) leering, ogling, and suggestive or insulting sounds;
- (vii) unwanted questions or comments about one's private life;
- (viii) unwanted physical contact, such as brushing up against one's body, patting or pinching;
- (ix) sexual assault (an offence under *the Criminal Code*).

(4) **Bullying:**

Repeated and targeted harassment and/or attacks inflicted on a person by individuals or groups including, but not limited to:

- (a) physical violence and attacks;
- (b) verbal taunts, threats and intimidation;
- (c) extortion or stealing of money and possessions;
- (d) exclusion from the peer group;
- (e) racially or ethnically based verbal abuse;
- (f) electronic or cyber bullying which includes the sending or posting of harmful email or threatening text, images, or messages using email, digital cameras, digital phone cameras, websites, chat rooms, instant messaging, cell phones and other personal communication devices.

(5) **Behaviours That Undermine Trust In School And Work Relationships:**

Acts or behaviours that undermine trust in school and work relationships include but not limited to:

- (a) violence;
- (b) harassment;
- (c) bullying;
- (d) knowingly making false statements;
- (e) behaviours contrary to the divisional *Code of Conduct*.

(6) **Behaviours That Contravene Provisions Of The Human Rights Code:**

*The Human Rights Code* prohibits harassment or unjust discrimination of employees on the basis of any of the following characteristics:

- (a) ancestry, including colour and perceived race;
- (b) nationality or natural origin;
- (c) ethnic background or origin;
- (d) religion or creed, or religious belief, religious association or religious activity;
- (e) age;
- (f) sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- (g) gender-determined characteristics or circumstances other than those included in other sections of the Code;
- (h) sexual orientation;
- (i) marital or family status;
- (j) source of income;
- (k) political belief, political association or political activity;
- (l) physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair, or other remedial appliance or device.

(7) **Complainant:**

An employee who is the direct or indirect receiver of disrespectful behaviour and who has filed a complaint with River East Transcona School Division.

(8) **Direct Receiver:**

An employee directly subject to disrespectful behaviour.

(9) **Indirect Receiver:**

An employee not directly subjected to disrespectful behaviour, but has been offended through third party observation of disrespectful behaviour to others.

(10) **Respondent:**

An employee against whom the respectful schools and workplaces complaint has been made.

**COMPLAINT REPORTING PROCEDURE:**

- (1) When an incident of inappropriate disrespectful behaviour arises, the complainant must first approach the respondent to communicate the complaint, if possible and attempt to resolve the issue. If the issue cannot be resolved to the satisfaction of the complainant or the complainant feels unable to deal with the respondent directly, then the complaint may be presented to the complainant's immediate supervisor.
- (2) If the immediate supervisor is the respondent, the complainant is encouraged to make their report to the person in charge at the organizational level above their immediate supervisor. This process may be elevated up to the superintendent or designate, if required.
- (3) The supervisor receiving the verbal report shall document and make notes on the following information from the complainant:
  - (a) Name of respondent(s);
  - (b) Specific details of the alleged incident(s) such as dates, times, specific statements and details regarding the sequences of the disrespectful behaviours and actions.
  - (c) Specific offense taken and/or injury incurred resulting from the disrespectful behaviour.
  - (d) Witnesses other than the complainant to the disrespectful behaviour.
  - (e) Corrective action the complainant would like to see implemented in order to resolve the complaint and make them whole and satisfied.
- (4) Once the supervisor or person in charge receives and notes the complaint, they shall advise and consult with the human resources department to help guide resolution of an incident of disrespectful behaviour. The human resources department will be responsible to communicate with the superintendent to keep him/her appropriately informed, in confidence and as required.
- (5) If, after the initial investigation by the supervisor, it is found that the specifics of the complaint do not have legitimacy or merit, the complaint may be

dispensed without further investigation. The complainant shall be informed of the decision by the supervisor, person in charge, or member of the human resources department in writing. The complainant may appeal this decision to the superintendent, Human Rights Commission, or other applicable regulatory body with jurisdiction.

## **INVESTIGATION PROCEDURE**

- (1) The superintendent or designate shall review the formal written complaint and shall determine whether the allegations can be considered disrespectful behaviour as defined by this policy.
- (2) The superintendent or designate shall interview the complainant, the respondent and any other individual(s) who has information regarding the complaint.
- (3) The superintendent or designate shall communicate the investigation's findings in writing to the complainant and the respondent.
- (4) Upon receipt, if the complainant disagrees with the findings, they may file their complaint with the Human Rights Commission, or other applicable regulatory body with jurisdiction.

### **Employee Representation**

At any step of the reporting, investigation and corrective action process, the complainant or respondent may choose to be accompanied by a union representative in the case of unionized staff, or a co-worker or other counsel in the case of non-unionized staff. The union representative, co-worker or other counsel must be advised as to the requirements of confidentiality.

The complainant may elect to contact the Human Rights Commission at any time before, during or after the division's involvement in resolving the complaint.

### **Interference in Investigations**

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

### **False Allegations**

Any complainant who has made false allegations against a co-worker shall be subject to disciplinary action.

## **CORRECTIVE ACTION**

Based on the complaint investigation findings, the superintendent or designate shall determine if, and to what degree, disciplinary action is warranted against the complainant or the respondent.

## **APPEAL OF DISCIPLINE AND CORRECTIVE ACTIONS**

### **Non-Union Employees**

Within seven calendar days of the employee becoming aware of disciplinary action being recommended by the superintendent or designate, the employee may appeal the severity of the discipline/action to the superintendent or designate.

The superintendent or designate shall review the employee's appeal details and render a decision on the discipline/action or may substitute an alternative solution.

### **Appeals for Employees Covered By Collective Agreements**

Any employee covered under an existing collective agreement has the right to appeal any discipline or corrective action issued through the grievance provisions of their collective agreement.

Effective Date:	May 3, 2005	Policy	XXX
Amended Date:	January 18, 2011	Regulation	XXX
Board Motion(s):	235/05;6/11	Exhibit	
Legal/Cross Reference:			

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