

HARASSMENT (DIVISION STUDENTS)

Background

The Division is committed to a positive school environment that supports mutual respect among all individuals and protects the dignity, worth, and human rights of every person. All school community members, including students, employees, board members, parents and legal guardians, school council members, volunteers, and contractors have the right to an environment free of harassment and discrimination. The Division has the responsibility to provide such a respectful environment. The Division also has the responsibility to ensure that if there is a breakdown in interactions as a result of behaviours and/or communications with Division students (registrants within the Division) that every effort is made to rectify the issue and to ensure that such students involved in these circumstances are engaged in necessary assessments, remediations, and interventions to prevent a re-occurrence of such behaviors and/or communications.

This administrative procedure 358 ("AP 358") applies to:

- (a) all behaviours that occur at schools, school board offices, buildings under school division jurisdiction, or other settings where Division students interact in the course of school-organized and school board-related activities, including classroom work, school events, school-organized travel or field trips;
- (b) all forms of written and verbal communication, including communications by e-mail, telephone, and postings on the intranet, Internet and/or social media.

The following practices are **not** considered to be within the scope of AP 358 as long as they are carried out in "good faith":

- assignment of school work and direction on how work is to be accomplished;
- situations that involve appropriate direction of students or appropriate disciplinary action that aligns with *Administrative Procedure 350 Student Discipline Framework*.

In all cases (whether the complaint is informal or formal) where there are reasonable grounds to suspect that a child is in need of protection and/or that a student is or may be suffering or may have suffered abuse, school personnel shall immediately act in accordance with *AP 314 – Child Abuse and Neglect*. *AP 358 Harassment (Students)* is relied upon in situations in which a student is being harassed or facing discrimination.

In all cases, making a false, frivolous, vexatious or bad faith allegation against any person subject to this AP 358 is a serious offense and is considered disrespectful behaviour that will not be tolerated. If such behavior is student behavior, *Administrative Procedure 350 Student Discipline Framework* will apply. If such behavior is adult behavior, *AP 460 Harassment (Employees and Non-employees)* will apply.

Definitions

1. **Discrimination** is the denial of individual rights and freedoms in a manner which contravenes the *Alberta Human Rights Act* which prohibits discrimination on the basis of race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, ancestry, place of origin, marital status, source of income, family status, and sexual orientation.
2. **Complainant** refers to an **employee or group of employees, non-employee** (Board member, Division volunteer, or any Division-related adult, youth, child or group who is not a Division employee or student) or **Division student** (a student who is registered in a school in the Division) or **group of Division students** in attendance at a Division facility who perceive himself/herself/themselves as the target of Harassment or Discrimination by a Division student.
3. **Conflict in Relationship** occurs through single episodic acts of breakdowns in relationship between individuals. Conflict is a normal and inevitable component of Division students interacting in Division-related or school-organized activities, events, field trips or travel. Disagreement and misunderstanding between parties is at the heart of conflict. However, conflict does not constitute premeditated efforts to cause harm, fear, or distress. Parameters for addressing conflict in relationship between students may be dealt with through positive discipline approaches and/or counselling as outlined in *Administrative Procedure 350: Student Discipline Framework*.
4. **Formal Complaint** consists of a signed written statement outlining the nature of the Harassment allegations, describing the specific incident(s), the dates and any witness(es) who may have been present. ([Form A](#) is the form to be used by the Complainant for the Formal or Informal complaint process. [Form B](#) is used by the School Principal for reporting the complaint and form documenting his/her investigation. [Form C](#) is to initiate a formal investigation.)
5. **Harassment** may include a single incident or a series of events. *Harassment* does not represent Conflict in Relationship. For the purpose of AP 358, Harassment, Sexual Harassment, and Bullying are collectively referred to as “Harassment”:
 - 5.1 **Harassment** refers to derogatory (e.g., excessively critical, insulting, belittling) or vexatious (e.g., aggressive, angry, antagonistic) conduct or comments that are known or ought reasonably to be known to be offensive or unwelcome. Harassment includes, but is not limited to, the following:
 - a) any objectionable comment, act, or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat;
 - b) conduct or comments involving any of the prohibited grounds of harassment and discrimination as defined in the *Alberta Human Rights Act*;

c) Section 11 of the *Alberta Human Rights Act* applies to AP 358.

5.2 **Sexual Harassment** includes comments, gestures, or physical conduct of a sexual nature where an individual knows or ought reasonably to know that the behaviour is unwelcome and personally offensive. Sexual harassment includes, but is not limited to:

- a) appropriate or derogatory comments, humour, insults or behaviour based on gender and/or gender expression, gender identity;
- b) inappropriate, lewd, or sexually offensive written, graphic or behavioural displays on school board property;
- c) inappropriate, lewd, or sexually offensive slogans or graphics displayed on clothing worn on school board property or during school-related activities;
- d) inappropriate conversation, physical touching, or leering that could be construed to be a sexual advance;
- e) inappropriate conversation regarding an individual's sexual behaviour;
- f) unsolicited and/or unwanted requests to engage in sexual activity;
- g) reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.

5.3 **Bullying** refers to repeated and hostile or demeaning behaviour by an individual where the behaviour is intended to cause harm, fear, or distress to another individual in the school community, including psychological harm or harm to the individual's reputation. Bullying often occurs in circumstances where one party endeavors to maintain power and control over another based upon systemic inequalities within a social setting.

6. **Supervisor** refers to any of the following individuals who are to receive a Harassment complaint whether informally or formally:

- a) **School Principal**: if the Complainant works at a school or is in attendance at a Division facility and is not a student;
- b) **Manager of a Division facility**: if the Complainant works at a Division facility or is in attendance at a Division facility and is not a student;
- c) **Assistant Superintendent, Human Resource Services**: if the Complainant works at central office or is in attendance at a central office facility and is not a student;
- d) **Superintendent**: if the Complainant is an Assistant Superintendent.
- e) **Board Chair**: if the Complainant is the Superintendent.

(Each of the above positions are collectively referred to as the "Supervisor.")

7. **Respondent** refers to the individual or individuals identified by the Complainant as causing the Harassment.

A. Roles and Responsibilities

1. As an employer, the Division is responsible for preventing and eliminating all forms of Harassment in learning and work environments.
2. Prevention and appropriate response to Harassment requires cooperation among all employees and students.
3. The Complainant and Respondent are to work constructively with each other to understand and resolve any issue of Harassment prior to filing a complaint.
4. Division employees shall respond appropriately to Harassment claims involving Division students in accordance with this AP 358.

B. Responding to Harassment

1. Any person who observes an incident of Harassment will take the incident seriously and shall address the incident to the supervisor and if the incident is in a school, the supervisor is the School Principal. If a student observes an incident of Harassment by a Division student (student who is registered in the Division), the student shall act in accordance with this AP 358. If a Division student observes an incident of harassment by an employee or non-employee, the student is to report the incident to the School Principal.
2. Any person who receives a Harassment complaint (whether informally or formally) will act in accordance with this AP 358 and will not devalue the substantive nature of the complaint. If the incident involves a Division Employee, then this person will follow AP 460 and the Complainant shall proceed with the formal investigation process in Section 5 of this AP 358 and involve the School Principal, Superintendent and Assistant Superintendent of Human Resource Services. AP 460 will apply with respect to the Division employee(s) and AP 358 will apply with respect to the student(s) involved.
3. For incidents involving Division students:
 - 3.1 A complainant shall submit a Harassment complaint (informally or formally) ([Form A](#)) to the School Principal;
 - 3.2 The School Principal will assess all Harassment complaints promptly and implement relevant procedures, ensuring due process and fairness to both the Complainant and the Respondent;
 - 3.3 When addressing Harassment complaints, the School Principal will ensure the Complainant and Respondent are informed of their rights:
 - a) Complainant:
 - i. to have the complaint addressed in a fair and professional manner;
 - ii. to choose which options the Complainant wants to pursue, i.e., to pursue the informal complaint process or to pursue the formal

- process;
- iii. to have all proceedings conducted with confidentiality on a need to know basis;
- iv. to be protected from retaliation;
- v. to be informed about the progress of the complaint.

b) Respondent:

- i. to be informed of the complaint and the Complainant's choices as to an informal or formal process;
- ii. to respond to them;
- iii. to be informed about the progress of the complaint;
- iv. to receive fair treatment.

3.4 All incidents of Harassment will be reported on the appropriate complaint form (Form A).

C. Resolution

1. Division Students who, upon investigation, are found to have harassed or who have filed a complaint of Harassment falsely and with malicious intent, and/or frivolously may be subject to disciplinary action, up to and including a Suspension or Suspension with a Recommendation of Expulsion. Consequences are to be determined by the School Principal in consultation with the Assistant Superintendent of Learning Services and may include:
 - 1.1 a formal apology to the Complainant;
 - 1.2 a letter in the student's record and as a PowerSchool Log Entry as per AP 180;
 - 1.3 a counselling or program for the offender;
 - 1.4 a suspension as applicable;
 - 1.5 a suspension with a recommendation of expulsion.
2. Respondents who, upon investigation, are found to have harassed may be barred from contact with the Complainant and/or Division property to the extent appropriate and permitted by law. Consequences may include:
 - 2.1 a formal apology to Complainant;
 - 2.2 a behavior and/or safety plan;
 - 2.3 the denial of access to specified or all Division property;
 - 2.4 the designation to a different school program or school in accordance with Suspension/Expulsion AP 354 and the *Education Act*;
 - 2.5 the loss of privileges such as volunteering, attending in classrooms in which the complainant is registered, attending or assisting at school or school-related or Division-related events;
 - 2.6 the recommendation of a formal assessment of risk to oneself or others as a requirement prior to being reconsidered as a registrant in a specific Division

educational program at a Division site;

2.7 a recommendation for counselling and/or recommendations as indicated in a written or verbal explanation of a risk assessment in 2.6.

3. All substantiated complaints of Harassment will be assessed by the Assistant Superintendent of Learning Services, or as otherwise designated by the Superintendent to prevent similar incidents in the future.

D. Confidentiality

1. All Harassment complaints will be kept in strict confidence on a need to know basis.

E. Procedures (Includes Informal and Formal Process)

1. Options for Complainants:

Complainants have the following options if they are harassed by Division students:

- 1.1 direct communication with the harasser;
- 1.2 informal complaint;
- 1.3 conflict resolution or mediation;
- 1.4 formal complaint.

2. Response by the School Principal

2.1 The School Principal will adopt a problem-solving approach to all claims of Harassment involving Division students.

2.2 The School Principal shall deal with all Harassment claims in a timely fashion and according to the following guidelines regardless of whether the process is informal or formal:

- a) create an atmosphere for a sensitive, timely, and decisive response;
- b) ensure the Complainant and Respondent are informed of their rights and responsibilities for resolving the reported incident(s);
- c) intervene as necessary, with help from the Deputy Superintendent (or other central office personnel as designated by the Superintendent), and other central office staff, as required;
- d) complete appropriate forms (Form A and B and possibly C), documenting all proceedings related to a Harassment complaint, and ensuring all documents are placed in a confidential file (upload the files in the log entry in PowerSchool and cum file as per AP180).

2.3 The School Principal must report incidents of Harassment on the appropriate reporting form ([Form B](#)) and provide the forms promptly to the Assistant Superintendent of Learning Services (or other central office personnel as designated by the Superintendent), even if the incident has been resolved successfully at the site.

2.4 Upon receipt of a reporting form ([Form B](#)), the Assistant Superintendent of Learning Services (or other central office personnel as designated by the Superintendent) will assess the reported incident and may follow up on the matter with the School Principal and/or take any steps that may be reasonably necessary to deal with the Harassment claim. The Assistant Superintendent of Learning Services (or other central office personnel as designated by the Superintendent) shall also inform the Superintendent on a regular basis.

3. Informal Complaint

3.1 The Complainant may make an informal complaint to the School Principal. If the Complainant is not comfortable working through any part of the informal complaint process with the School Principal, then the Complainant may proceed to submit the request for a formal investigation from the outset and proceed to Section 4 of this AP 358;

3.2 The School Principal will address Harassment incidents involving students registered at his/her school. If the incident(s) involved students from other schools or if the School Principal's student was in another location, he/she will collaborate with other School Principals to complete the reporting and investigating of the incident(s). This person must maintain an appropriate impartial balance between the Complainant and the Respondent and must act in a timely fashion.

3.3 The School Principal will immediately meet with all the parties and ensure that the appropriate action is taken. The steps may include one or more of the following:

- a) talking to the Respondent on the Complainant's behalf;
- b) arranging for the parties to come together to resolve the complaint;
- c) advising the Complainant of other options.

3.4 The informal complaint procedure shall not normally exceed ten (10) school days from the date of receipt of the informal complaint to the School Principal.

4. Conflict Resolution and Mediation

4.1 If the Complainant and the School Principal have not been able to resolve the situation informally with the Respondent, or if the Complainant has reason to bypass that process, conflict resolution or mediation are possible next steps;

4.2 A Complainant may ask for conflict resolution or mediation, or s/he may agree to it if it is suggested to him/her/them;

4.3 If the Complainant wishes to participate in conflict resolution or work towards a mediated settlement, the Deputy Superintendent (or other central office personnel as designated by the Superintendent), will appoint,

following approval from the Superintendent, a person to mediate the conflict, from within or outside of the school Division;

- 4.4 If the parties reach a resolution, the mediator will inform the Superintendent or designate who will then assume responsibility for monitoring the progress to resolution;
- 4.5 If a resolution is not reached, the mediator will inform the Deputy Superintendent (or other central office designated by the Superintendent), who will inform the Complainant of her or his options to pursue a formal investigation under the formal complaint process in accordance with Section 5 this AP 358.

5. Formal Complaint Process / Formal Investigation

- 5.1 Should the Complainant decide to proceed with a formal complaint s/he will do so by submitting a completed written form ([Form C](#)) to the School Principal. Please note: If the School Principal is the Respondent, then AP 460 applies, and the Assistant Superintendent of Human Resource Services will receive the complaint. If the Complainant is not comfortable working through the informal process with the School Principal, then the Complainant may proceed to submit the request for a formal complaint process/investigation to the Deputy Superintendent;
- 5.2 A formal written complaint ([Form C](#)) shall be filed immediately in the PowerSchool Log Entry and student record as per AP 180 and a copy must be sent within 24 hours to the Deputy Superintendent.

In the formal process the Complainant shall:

- a) complete the Request for Formal Harassment Investigation ([Form C](#)) and receive help necessary to complete this record for the purposes of communicating accurately and honestly the details of the complaint;
 - b) review the completed Request for Formal Harassment Investigation Form ([Form C](#)) with the School Principal;
 - c) within 5 school days of receipt of the formal Harassment complaint, the School Principal will sign the completed Request for Formal Harassment Investigation Form ([Form C](#)) to indicate the date of receipt. The School Principal will be in contact with the Deputy Superintendent to proceed with next steps towards resolution. The School Principal will send/email a copy of the formal complaint to the Deputy Superintendent and upload a copy to PowerSchool in the Log Entry location as per AP 180;
 - d) within 5 school days of receipt of the formal Harassment complaint, the School Principal will inform the parents or legal guardians of the students involved in the process what has happened and the process for investigating such a harassment complaint.
- 5.3 The Assistant Superintendent of Learning Services will arrange to have the formal Harassment complaint investigated.

- 5.4 If appropriate, the Assistant Superintendent of Learning Services may attempt to resolve the complaint through discussion with the parties or may recommend conflict resolution or mediation. If this is not successful, the matter will be formally investigated.
- 5.5 After instruction on this point from the Superintendent, the Assistant Superintendent of Learning Services (or other central office designated by the Superintendent) will determine who will investigate the formal Harassment complaint.
- 5.6 The investigator may be an appropriate internal employee or an external investigator. If the Assistant Superintendent of Learning Services (or other central office designated by the Superintendent) is of the view that an external investigator is to be used, the Superintendent must provide prior approval for both who is selected, and the approximate cost allocated to the investigation.
- 5.7 Individuals who are named as Respondents in a formal complaint have the right to know in a timely fashion that they are the subject of a formal complaint, what the allegations are (that is, the specifics of the allegation, including times, dates, and the alleged conduct and witnesses) and what process will be followed in the investigation.
- 5.8 The investigator will:
- a) interview the Complainant and request a written statement ([Form C](#)) either written by the Complainant and/or documented during the interview on behalf of the Complainant;
 - b) give a copy of the written complaint ([Form C](#)) collected in step 1 (above) to the Respondent's parents or to the Respondent if the Respondent is a legally independent student and invite him or her to respond.
 - c) convey the response back to the Complainant's parents or the complainant if the Complainant is a legally independent student for a reply;
 - d) as necessary, re-interview the Complainant and Respondent, interview others, and gather materials to complete the investigation;
 - e) Produce a factual report ([Form C](#)) about the complaint for the Deputy Superintendent (or other central office designated by the Superintendent);
 - f) wherever possible, investigations should be finalized within sixty (60) school days after the appointment of the investigator. However, the Deputy Superintendent (or other central office designated by the Superintendent) may extend the deadline where circumstances warrant;
 - g) a Complainant may ask the Deputy Superintendent (or other central office designated by the Superintendent) to discontinue the process at any time. Generally, the Complainant will have the option to discontinue the process except when the formal complaint appears to be false and

malicious or except where the Deputy Superintendent (or other central office designated by the Superintendent) is of the view that to do so is not justified in the circumstances, after consultation with the Superintendent.

6. Resolution

- 6.1 After the Deputy Superintendent (or other central office designated by the Superintendent) has received the investigation report from the investigator and the investigation confirms that prohibited behavior has occurred, the Deputy Superintendent (or other central office designated by the Superintendent) will initiate the appropriate consequences.
- 6.2 If the Superintendent recommends expulsion of the Respondent, the appropriate remedy will be initiated by the Deputy Superintendent (or other central office designated by the Superintendent) in consultation with the Superintendent to prepare for the Board hearing on the matter.
- 6.3 The Deputy Superintendent (or other central office designated by the Superintendent) will retain the documents related to the investigation in order to provide an alternative education program for the student and to organize any formal assessments, behavior and/or safety plans, with parents and the School Principal of the previous and incoming school (if there is a change of location for programming).
- 6.4 If the Respondent is an employee, refer to AP 460.

E.2 Options for Non-Employees

1. Non-employees have the following options if they are harassed by a Division student:
 - 1.1 direct communication with the harasser;
 - 1.2 informal complaint, conflict resolution, or mediation;
 - 1.3 formal investigation.
2. Non-employees are expected to adopt a problem-solving approach aimed at helping all parties reach a satisfactory resolution.
3. Response by the School Division or School Board:

The procedures set about above at E.1 (sections 1 through to 6) shall apply. The Deputy Superintendent (or other central office designated by the Superintendent) will receive the complaint and take all necessary steps to respond to the Harassment claim in accordance with the procedures set about in E.1. For the purpose of this complaint, the “Supervisor” is the Deputy Superintendent who will co-investigate, as necessary, with the School Principal and/or other Supervisors to work through an informal or formal process to being about resolution.

F. Direct Communication

1. Individuals who experience or perceive themselves to be the target of Harassment are strongly encouraged to promptly communicate with the Respondent, in person or in writing, to inform the person clearly and directly that the behavior that is unwelcome and must stop. When direct communication is too difficult for the Complainant, the Complainant is to go to the School Principal or go to his/her parents or legal guardians to then go to the School Principal to arrange for a meeting with the Respondent and his/her parents and/or legal guardians to enable safe, direct communication with the Respondent.
2. Individuals who are subject to Harassment should keep a record of all of the incidents and responses. For Complainants who are not able to document their complaint or responses to the complaint, the School Principal will keep records using Forms A and B in this AP 358 to facilitate this process and transparency of communication.

G. Steps Taken Following an Investigation

1. If the results of the investigation do not support the allegations, the Harassment complaint will be dismissed, and a letter will be issued indicating that the Respondent has been cleared of all allegations. An individual cleared of allegations has the option of requesting that a copy of the letter be placed in his/her student records (cum file, Log Entry in PowerSchool) or employee file, if the individual is an employee with the Division as per AP 460.
2. If the results of the investigation support the Harassment allegations, a range of sanctions may be imposed on the Respondent by the School Principal with support of the Deputy Superintendent and Assistant Superintendent of Human Resources and Administrative Support Services or designate of the Superintendent:
 - 2.1 The sanctions will depend upon the nature and seriousness of the offence. For employees, the range of sanctions may include a verbal warning, a written reprimand with a copy retained in the respondent's file, transfer (if teacher: in accordance with the *Education Act*), demotion, suspension or termination of employment (if teacher: in accordance with the *Education Act*. In addition, a staff member/parent/volunteer found guilty of an offense related to abuse of this nature will be prosecuted to the full extent of the law;
 - 2.2 If the Respondent is an employee, documents related to disciplinary action will be placed in the Respondent's personnel file;
 - 2.3 If the results of the investigation do not support the allegations, the Harassment complaint will be dismissed, and a letter will be issued indicating that the respondent has been cleared of all allegations. An individual cleared of allegations has the option of requesting that a copy of the letter be placed in the personnel or student file.
 - 2.4 If the Respondent is a Division student, the School Principal will refer to the School Code of Conduct, the *Education Act*, and to the AP 350 School

Discipline Framework, and to AP 354 Suspension/Expulsion, to choose an approach to discipline that ensures that a safe, caring, welcoming, and respectful environment is an utmost priority for all students, including the Respondent.

3. If the evidence indicates that the Complainant knowingly and willfully made false allegations in an attempt to cause harm to the Respondent, a range of sanctions may be imposed on the complainant by the Superintendent. The sanctions depend upon the nature and seriousness of the offence. For employees, the range of sanctions may include: a verbal warning, a written reprimand with a copy retained in the complainant's file, transfer (if teacher: in accordance with the *Education Act*), demotion, suspension or termination of employment (if teacher: in accordance with the *Education Act*). For Division students, the sanctions will be suspension or suspension with a recommendation of expulsion or potentially an immediate recommendation of expulsion, as determined by the School Principal in consultation with the Deputy Superintendent.

H. Retaliation

1. No employee shall take retaliatory action with the intent of dissuading or punishing an individual for participating in the complaint resolution process. Sanctions may be imposed for retaliation.
2. Retaliation against individuals participating in the complaint resolution process is not to be confused with sanctions imposed for harassment or making false allegations.

I. Role of Every Supervisor

1. It is the responsibility of every supervisor to ensure that the workplace under his/her jurisdiction is free from Harassment.

[Form A](#)
[Harassment Complaint Form](#)

[Form B](#)
[Harassment Reporting Form](#)

[Form C](#)
[Request for Formal Investigation of Harassment](#)

References:

Alberta Act
Education Act
Alberta Human Rights Act
Child Youth and Family Enhancement Act
Criminal Code
Employment Standards Code

Occupational Health and Safety Act
Whistleblower Protection Act