

HARASSMENT (EMPLOYEES)

Background

The Division is committed to a positive work 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 workplace. The Division also has the responsibility to ensure that if there is a breakdown in interactions as a result of behaviours and/or communications between Division employees and/or non-employees, that every effort is made to rectify the issue and to ensure that such Division employees 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 460 (“AP 460”) applies to:

- (a) all behaviours that occur at schools, school board offices, buildings under Division jurisdiction, or other settings where members of the school community interact in the course of school-related or school board-related activities, including social functions, travel, conferences or training events;
- (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 460 as long as they are carried out in “good faith”:

- assignment of work and direction on how work is to be accomplished;
- situations that involve appropriate direction of employees;
- requests by supervisors for updates or status reports;
- situations that involve appropriate disciplinary action;
- expectations for reasonable quality of job performance, on-going discussions about performance expectations and/or participation in the performance management process;
- one-on-one discussions between supervisors and their staff;
- approval or denial of time off.

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* or *AP 358 Harassment (Students)*. In all cases, making a false, frivolous, vexatious or bad faith allegation against any

person subject to this AP 460 is a serious offense and is considered disrespectful behaviour that will not be tolerated.

The following legislation and Division Administrative Procedures also address harassment in the work place and are applicable to situations requiring their application:

- Alberta's *Occupational Health and Safety Act* amendments (effective June 1, 2018) defines harassment and violence to address workplace bullying and physical and psychological harm, including sexual and domestic violence (collectively "OH & S Workplace Harassment and Violence").
- *Administrative Procedure 412* (Occupational Health and Safety) applies to any incident which constitutes OH & S Workplace Harassment and Violence.
- *The Public Interest Disclosure (Whistleblower Protection Act)* (March 1, 2018) emphasizes the importance of reporting wrongdoing in the workplace and following due process.

NOTE: *Administrative Procedure 358 (Harassment)* and *Administrative Procedure 350 Student Discipline Framework* apply specifically to Division students and any Division student harassment-related matters.

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 **non-employee** (group of employees, Board member, Division volunteer, or any Division-related adult, youth, child or group who is not a Division employee or student) who perceives himself/herself/themselves as the target of Harassment or Discrimination by anyone (employee, non-employee) in attendance at a Division facility other than a Division student (**See AP 358 if the student registered in the Division is either the Complainant or Respondent**).
3. **Conflict in Relationship** occurs through single episodic acts of breakdowns in relationship between individuals. Conflict is an inevitable component of a workforce. 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 counseling, and / or through *Administrative Procedure 350: Student Discipline Framework*.
4. **Formal complaint** consists of a signed written statement set out in [Form A](#) 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 complaint process.

5. **Harassment** may include a single incident or a series of events. *Harassment* does not represent Conflict in Relationship. For the purpose of AP 460, Harassment, Sexual Harassment and Workplace 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*.

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 identification, gender expression;
- 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 **Workplace Bullying and/or 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 Resources and Administrative Support 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. All Division employees shall respond appropriately to Harassment claims in accordance with this AP 460.

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 or is involved in an incident of Harassment by a Division student (student who is registered in the Division), the student shall act in accordance with AP 358. If a Division student observes or is involved in an incident of Harassment with another Division student or non-employee or employee, the Division student shall act in accordance with AP 358. If a Division employee observes another Division employee involved in an incident of Harassment with a Division student or any Division-related child or youth, s/he shall act in accordance with this AP 460.
- 2. Any person who receives a Harassment complaint (whether informally or formally) will act in accordance with this AP 460, and will not devalue it. This does not apply to Division students (students who are registered within the Division). See AP 358 which applies to Division students. If the incident involves

a person who is not a Division student, then this person will follow AP 460. If the incident involves a Division student and a Division Employee, the Complainant shall proceed with the formal investigation process in Section 5 of AP 358 and involve the School Principal, Assistant Superintendent of Learning Services and Assistant Superintendent of Human Resources and Administrative Support Services. AP 460 will apply with respect to employee(s) involved and AP 358 will apply with respect to the student (s) involved.

3. For incidents involving employees and non-employees:
 - 3.1 A complainant shall submit a Harassment complaint (informally or formally) ([Form A](#)) to his/her Supervisor or to the Supervisor of the facility in accordance with the procedures set out in Section E below (Procedures [Includes Informal and Formal Process]).
 - 3.2 The Supervisor 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 Supervisor will ensure that 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. Employees 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 termination (or a recommendation of termination in the case of a teacher). Remedies are to be determined by the Superintendent or designate, and may include:

- 1.1 formal apology to complainant;
 - 1.2 letter on file;
 - 1.3 required counselling or program for offender;
 - 1.4 suspension with or without pay, as applicable;
 - 1.5 termination of employment.
2. Non-employees 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. Remedies may include:
 - 2.1 formal apology to Complainant;
 - 2.2 a reprimand and/or letter;
 - 2.3 denial of access to Division property;
 - 2.4 denial of services;
 - 2.5 loss of contract;
 - 2.6 recommendation for counselling.
 3. All substantiated complaints of Harassment will be assessed by the Assistant Superintendent of Human Resources and Administrative Support 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 Employees

Employees have the following options if they are harassed by other employees or by non-employees:

- 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 Supervisor**
 - 2.1. All employees and the Supervisor will adopt a problem-solving approach to all claims of Harassment involving employees with other employees or non-employees.

- 2.2. The Supervisor shall deal with all Harassment claims in a timely fashion and:
- 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 Assistant Superintendent, Human Resources and Administrative Support Services (or other central office personnel as designated by the Superintendent), and other central office staff, as required;
 - d) complete appropriate forms, documenting all proceedings related to a Harassment complaint, and ensuring all documents are placed in a confidential file.
- 2.3 All Supervisors must report incidents of Harassment on the appropriate reporting form ([Form B](#)) and provide the forms promptly to the Assistant Superintendent, Human Resources and Administrative Support Services (or other central office personnel as designated by the Superintendent), even if the incident has been resolved successfully at the site. Any form relating to a Division student as a Complainant or Respondent shall be processed in accordance with AP 358.
- 2.4 Upon receipt of a complaint form ([Form A](#)), the Assistant Superintendent, Human Resources and Administrative Support 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 Supervisor and/or take any steps that may be reasonably necessary to deal with the Harassment claim. The Assistant Superintendent, Human Resources and Administrative Support 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:
- a) to the school principal if the Complainant works at or is in attendance at a school;
 - b) to the manager of a facility if the Complainant works at or is in attendance at a Division facility;
 - c) to the Assistant Superintendent, Human Resources and Administrative Support Services (or other central office personnel as designated by the Superintendent), if the Complainant works at or is in attendance at central office and is not a student;
 - d) to the Superintendent if the Respondent is an Assistant Superintendent;
 - e) to the Board Chair if the Respondent is the Superintendent.

- 3.2. The school principal or designate will address Harassment incidents involving employees at their school. 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 or designate 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 appropriate Supervisor (i.e. school principal, facility manager, etc.).
- 3.5 In cases where a Division student is named as a Complainant or Respondent, AP 358 shall apply. In cases where Division student is the Complainant or Respondent involving a Division employee as either the Respondent/Complainant, a formal investigation shall take place in accordance with Section 5 of AP 358 which refers to this AP 460.
- 3.6 In cases where a non-employee is named as a Complainant or Respondent and the Supervisor does not have a supervisory relationship with those named, the Supervisor will contact the Assistant Superintendent of Learning Services if the complaint is about children or youth, and the Assistant Superintendent of Human Resources and Administrative Support Services if the complaint is about adults.

4. Conflict Resolution and Mediation

- 4.1 If the Complainant and the appropriate Supervisor 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 Assistant Superintendent, Human Resources and Administrative Support Services (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 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 Assistant Superintendent, Human Resources and Administrative Support Services (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 this AP.

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 Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent). Please note:
- a) If the Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent) or any other Assistant Superintendent, is the Complainant or Respondent, then the Superintendent will receive and handle the complaint;
 - b) If the Superintendent is the complainant or the Respondent, then the Chair of the Board will receive and handle the complaint.
- 5.2 A formal written complaint ([Form A](#)) shall be filed within six (6) months from the date of the most recent incident cited in the Harassment complaint. The Superintendent (or designate) has discretion to accept a formal complaint filed after six (6) months from the date of the most recent incident cited in the Harassment complaint.
- 5.3 In the formal process the Complainant shall:
- a) Complete the Request for Formal Harassment Investigation Form (see [Form C](#));
 - b) Review the completed Request for Formal Harassment Investigation Form (see [Form C](#)) with the Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent). A Complainant is encouraged to seek assistance from the Assistant Superintendent, Human Resources and Administrative Support Services and / or union / association;
 - c) Within 5 school days of receipt of the formal Harassment complaint (see [Form A](#)) the appropriate Supervisor will sign the completed Request for Formal Harassment Investigation Form ([Form C](#)) to indicate the date of receipt. The appropriate Supervisor shall accept the formal complaint provided no more than six (6) months has elapsed since the most recent incident outlined in the written complaint;
 - d) Keep a copy of both the Harassment complaint ([Form A](#)) and completed Request for Formal Harassment Investigation Form ([Form C](#)) for his or her records;

e) Provide a copy of the Harassment complaint ([Form A](#)) and completed Request for Formal Harassment Investigation Form ([Form C](#)) to the appropriate Supervisor. The Supervisor shall forthwith provide a copy of [Form B](#) and [Form C](#) to the Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent). If the Complainant or the Respondent is a student, AP 358 shall apply;

5.4 The Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent) will arrange to have the formal Harassment complaint investigated.

5.5 If appropriate, the Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent) 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.

5.6 After instruction on this point from the Superintendent, the Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent) will determine who will investigate the formal Harassment complaint.

5.7 The investigator may be an appropriate internal employee or an external investigator. If the Assistant Superintendent, Human Resources and Administrative Support 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.

5.8 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.

The investigator will:

- a) Interview the Complainant, and request a written statement ([Form A](#)) from the Complainant, and document the interview ([Form B](#));
- b) Give a copy of the written complaint collected in step 1 (above) to the Respondent and invite him or her to respond. If the Respondent is a student, AP 358 applies;
- c) Convey the response back to the Complainant 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 about the complaint for the Superintendent, with copies to the Assistant Superintendent, Human Resource and

Administrative Services (or other central office designated by the Superintendent) (as long as the Respondent is not the Assistant Superintendent, Human Resource and Administrative Services (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 Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent) may extend the deadline where circumstances warrant;
- g) A Complainant may ask the Assistant Superintendent, Human Resources and Administrative Support Services (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 Assistant Superintendent, Human Resource and Administrative Services (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 Assistant Superintendent, Human Resource and Administrative Services (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 Superintendent and the Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent) will initiate the appropriate remedy.
- 6.2 If the Superintendent has been delegated the authority by the Board under the Education Act to terminate a teacher and if the circumstances warrant a teacher termination recommendation, the appropriate remedy will be initiated by the Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent).
- 6.3 If the Respondent is a student AP 358 applies.
- 6.4 The Assistant Superintendent, Human Resources and Administrative Support Services (or other central office designated by the Superintendent) will retain the documents related to the investigation.
- 6.5 If the Respondent is an employee, documents related to disciplinary action will be placed in the Respondent's personnel file.

E.2 Options for Non-Employees

- 1. Non-employees include board members, parents or guardians, volunteers,

other community members, and independent contractors and suppliers who do business with the school division.

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

The procedures set about above at E.1 (sections 1 through to 6) shall also apply to a **complaint made in relation to a non-employee (who is not a Division student)**. In all of these cases, the Assistant Superintendent, Learning Services (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 above at E.1. For the purpose of this complaint, the “Supervisor” is the Assistant Superintendent, Learning Services.

If a complaint is filed by a non-employee against a Division student, AP 358 applies.

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 behaviour is unwelcome and must stop.
2. In cases where incidents of Harassment involve students, the process set out in AP 358 shall apply.
3. Individuals who are subject to Harassment should keep a record of all the incidents and responses.

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 personnel file.

2. If the results of the investigation support the Harassment allegations, a range of sanctions may be imposed on the Respondent by 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*).
 - 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.
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*).

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.

LIST OF FORMS

[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

Revision Dates: June 18, 2018