Medicine Hat Public School Division

601-1st Avenue SW, Medicine Hat, AB T1A 4Y7 | Phone 403.528.6700 | Fax 403.529.5339 | www.mhpsd.ca

***MEDICINE HAT PUBLIC BOARD OF EDUCATION OPERATES AS MEDICINE HAT PUBLIC SCHOOL DIVISION,***
*AND FOR THE PURPOSE OF THIS DOCUMENT WILL BE REFERRED TO AS "MHPSD" AND/OR "DIVISION"*

SECTION 500 – Personnel and Employee Relations

# ADMINISTRATIVE PROCEDURE: DISCRIMINATION, HARASSMENT, VIOLENCE AND BULLYING REPORTING

| *PROCEDURE CODE:* | *528 AP 001* |
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| **Policy Reference:** 528 - Discrimination, Harassment, Violence and Bullying | |

## PROCEDURE

Background

1. The Division must ensure that policies exist which guarantee, to the greatest extent possible, an environment free from discrimination, harassment, violence and bullying. Anyone who, in good faith, believes they have been subject to discrimination, harassment, violence and/ or bullying or who may have witnessed such, may make a complaint under this policy without repercussions or the fear of reprisal.
2. The purpose of this Administrative Procedure is:
   2.1. To ensure that all members of the Division community understand that acts of discrimination, personal harassment, sexual harassment, violence and bullying are unacceptable and will not be tolerated; and
   2.2. To outline a process for reporting and investigating incidents of discrimination, personal harassment, sexual harassment, violence and bullying.

Application

1. This procedure shall apply to all individuals, who work, study, visit or volunteer within the Division's sites during work and school related-activities whether on, or off Division property.
2. All employees, students, visitors, volunteers and contractors, and parents/guardians are responsible for knowing, understanding and complying with this procedure.
3. The Division will investigate and respond to a complaint made under this procedure and will take remedial action as necessary and appropriate including disciplinary action up to and including termination of employment or exclusion from the school, work site or organization.

Definitions:

The following definitions shall apply for the purpose of this policy:

1. Discrimination
   1.1. Discrimination means any behavior or practice, whether intentional or not, that differentiates adversely, excludes or denies access to an individual based on race, religious beliefs, color, gender, gender identity, gender expression, sexual orientation, physical or mental disability, age, ancestry, place of origin, marital status, family status, or source of income.
2. Personal Harassment
   2.1. Personal Harassment means any unwelcome verbal or physical behavior, conduct or communication that disparages, humiliates, intimidates, threatens or harms another person.
   2.2. The behavior need not be intended as harassing to be considered Personal Harassment. It is sufficient that one knows or ought reasonably to know that the behavior is offensive or unwelcome.

   Note: The normal exercise of supervisory authority, including but not limited to, training, direction, instruction, counselling, supervision, evaluation and discipline does not constitute harassment.
   2.3. Some examples of discrimination, personal harassment, sexual harassment, violence and bullying which will not be tolerated include verbal or physical abuse, threats, derogatory remarks, innuendos or taunting of any individual on the grounds listed above whether communicated in person or online. Medicine Hat Public School Division will also not tolerate the display of pornographic, racist or offensive signs or images, practical jokes that result in awkwardness or embarrassment, whether indirect or explicit.
3. Sexual Harassment
   3.1. Sexual Harassment is any unwelcome behavior, which is sexual in nature. Such behavior may directly or indirectly affect or threaten to affect in an adverse manner a person's job security, prospects, promotions, earnings, working conditions, or learning environment.
      3.1.1. Sexual Harassment can include, but is not limited to:
         - Unwanted physical contact;
         - Unwelcome remarks or compromising invitations;
         - Verbal abuse or display of suggestive pictures;
         - Leering, whistling, innuendoes, jokes or other behaviors or gestures of a sexual nature;
         - Demands for sexual favors;
         - Stalking;
         - Insulting remarks about sexual orientation;

- Threats or intimidating behavior of a sexual nature;
- Bragging about sexual prowess for others to hear;
- Sexually insulting remarks about race, gender, ability or class.

3.1.2. The behavior need not to be intended as harassing to be considered as sexual harassment. It is sufficient that one knows or ought reasonably to know that their behavior is offensive or unwelcome.

4. Violence

4.1. Violence, whether at a work site or work-related, means the attempted, threatened or actual conduct of an individual that causes or is likely to cause physical or mental injury and includes any threatening or intimidating statement or behaviour that gives an individual reasonable cause to believe that they are at risk of injury.

4.1.1. Domestic Violence: The Division recognizes that domestic violence may occur in the workplace or school environment. Where the Division becomes aware, or ought reasonably to be aware, that domestic violence may expose a worker or student to risk, the Division shall take reasonable precautions to protect those at risk.

4.2. Violence is different than discrimination and harassment and goes beyond being merely "offensive" to aggressive behaviour involving physical contact or statements involving threats of physical harm to the individual. It can be subtle or overt. Abuse may be deliberate or unintended.

4.3. The Division will disclose only the minimum amount of personal information that is necessary to inform employees of a specific or general threat of violence or potential violence.

4.4. The Division's violence prevention policy is not intended to discourage an employee from exercising the employee's rights pursuant to any other law.

4.5. If an incident of violence occurs at any Division worksite, any employee may obtain immediate assistance by contacting any one or more of the following:

- Emergency medical services
- Medicine Hat Police Service
- The school Principal, Supervisor, Director, or Superintendent
- The Division Employee Assistance Program
- The school Health and Safety Representative or Union Representative

5. Bullying

5.1 Bullying is a form of aggressive behaviour manifested by the use of force or coercion to affect others, particularly when the behaviour is habitual and involves an imbalance in power and/or authority.

5.1.1. Bullying:

- Can be emotional, verbal or physical
- Can include social exclusion or isolation
- Can include lies or false rumors
- Can include threats
- Can take the form of cyber-bullying (online)

6. Complainant
   6.1. A person who has witnessed and/or believes he or she has been the subject of discrimination, personal harassment, sexual harassment, violence or bullying and who seeks recourse through this procedure.
7. Respondent
   7.1. A person against whom an allegation of discrimination, personal harassment, sexual harassment, violence or bullying has been made pursuant to this procedure.

Prohibition

1. No employee or other individual shall commit an act of violence, discriminate against or harass, either personally or sexually, another employee, student, parent/guardian, contractor, visitor or volunteer on Division premises or during Division-sponsored activities off site.

Confidentiality

1. The Division will endeavor to respect the confidentiality of a complaint to the extent possible.
2. In order to complete the investigation, all complaints and information gathered in the course of investigating a complaint, including the identity of the Complainant, Respondent and any witnesses will only be disclosed:
   2.1. As necessary for the purposes of this administrative procedure and to conduct any investigation in accordance with the principles of fairness and natural justice;
   2.2. In accordance with POPA or required by law;
   2.3. When taking corrective action;
   2.4. Where disclosure is necessary due to a specific or general threat of violence or potential violence to the safety of the Complainant or others.

Reprisals

1. Reprisals against individuals who have reported a complaint (informal or formal) or against any participants in a harassment investigation are forbidden.
2. Alleged reprisals will be considered harassment under this procedure and shall be investigated as a formal complaint, and if substantiated, will be subject to the same consequences as a founded complaint of harassment.

False Complaints

1. If the complaint made (informal or formal) is determined, based on a balance of probabilities, to be made in bad faith, is vexatious or is clearly without merit, the complaint process shall be discontinued and disciplinary action may be taken against the Complainant. This action may include dismissal from employment, or where the Complainant is a student, suspension or expulsion.

Timelines

1. Complaints of discrimination, personal harassment, sexual harassment, violence or bullying under this administrative procedure are to be made within a reasonable time from the date the initial incident occurs. Complaints which are brought forward more than one (1) year from the date of the occurrence may or may not be investigated at the discretion of the Deputy Superintendent, Human Resources.

Records

1. All records related to a discrimination, personal harassment, sexual harassment, violence or bullying retaliation investigation must be kept separate from a Respondent's personnel file, except when the allegations are determined to be substantiated.
2. Records of student complaints must be kept in accordance with the Student Record Regulation 225/2006.

Roles and Responsibilities

1. All supervisors are responsible for:
   1.1. Informing themselves and their employees, parents/guardians, volunteers, contractors working directly with students and staff, and students of this procedure; and
   1.2. Taking appropriate action to address complaints of discrimination, personal harassment, sexual harassment, violence or bullying.
2. All Division employees, contractors, students, volunteers, visitors and parents/guardians are responsible for:
   2.1. Complying with this administrative procedure;
   2.2. Making, in good faith, complaints of discrimination, personal harassment, sexual harassment, violence or bullying; and
   2.3. Cooperating with any investigation that is undertaken in accordance with this administrative procedure.

Resolution

1. A complaint of discrimination, personal harassment, sexual harassment, violence or bullying may be resolved by any one or all of the following methods:
2. Informal Resolution: either by the Complainant informing the Respondent directly that their actions are unwelcome and must stop immediately, or where the Complainant is

uncomfortable approaching the Respondent directly, requesting that a third party provide assistance by way of informal intervention;

3. Formal Resolution: where informal resolution proves unsuccessful or inappropriate, the Complainant may request a formal investigation initiated by a formal written complaint.
4. In addition to seeking informal or formal resolution of a complaint of discrimination, personal harassment, sexual harassment, violence or bullying, nothing in this administrative procedure restricts a person's legal right to:
   4.1. Make a complaint with the Alberta Human Rights Commission;
   4.2. Contact the Police if an assault or sexual assault has occurred;
   4.3. Seek legal advice;
   4.4. File a complaint with a professional regulatory body or employee union or association as applicable.
5. In the absence of a specific complaint of discrimination, personal harassment, sexual harassment, violence or bullying, the Deputy Superintendent, Human Resources or designate may initiate an independent investigation where:
   5.1. There is a pattern of inquiries or complaints over time which suggests the existence of a specific problem which has been identified but not corrected;
   5.2. There is reason to believe that a broader, systemic problem exists in the learning and/or working environment which causes, contributes to or encourages discrimination, personal harassment, sexual harassment, violence or bullying.
   5.3. As a result of an investigation, a specific complaint is not supported but there is reasonable evidence to support that a broader systemic problem exists; or
   5.4. In any other circumstances that the Deputy Superintendent, Human Resources, deems it appropriate.
6. When an investigation of a non-specific discrimination, personal harassment, sexual harassment, violence or bullying complaint is approved, the Deputy Superintendent, Human Resources shall advise the parties involved of the commencement of an independent investigation, including the reasons for initiating the investigation, and the process and procedures which will be followed in carrying out the investigation which may include but is not limited to the formal complaint resolution process for complaints involving students or complaints involving non-students as outlined below.

Informal Resolution

1. Use of informal resolution procedures is not a pre-requisite to seeking a formal resolution, however, individuals are encouraged to first take direct action to resolve an issue of harassing behavior by advising the Respondent (either verbally or in writing) at the earliest opportunity that his or her actions are unwelcome and tell them to stop.

2. If the Complainant has been unable to resolve the issue on their own, or the Complainant is not comfortable approaching the Respondent directly, the Complainant will proceed to make an informal complaint to their immediate supervisor, or a teacher or school administrator in the case of a non-employee Complainant. If the Respondent is the immediate supervisor, teacher or school administrator, then the Complainant may contact the Deputy Superintendent, Human Resources to make an informal complaint.
3. Upon receipt of an informal complaint, the immediate supervisor, teacher or school administrator shall, in a timely manner:
    3.1. Review the complaint submitted to determine the basis of the allegations being made and whether a formal investigation is required;
    3.2. Notify the Respondent that an informal complaint has been received including the specifics of the allegations such as times, dates and the alleged conduct;
    3.3. Meet with the Complainant and Respondent to discuss the allegations with a view towards an acceptable resolution and implementing an informal plan of action where necessary; and
    3.4. Monitor the situation, holding if necessary, subsequent meetings with the Complainant and Respondent and taking any further steps as deemed appropriate to ensure that the harassment has stopped.

Formal Resolution

1. A formal complaint may proceed in the following circumstances:
    1.1. If the complaint has not been resolved at the informal level; or
    1.2. Should the harassment continue; or
    1.3. If the Complainant, or the third party who the Complainant has made an informal complaint of harassment to believes that the nature of the alleged harassment warrants formal resolution.
2. A formal complaint shall be made in writing, when reasonable to do so, by the Complainant to their immediate supervisor or the school Principal in the case of a non-employee Complainant, who will forward the formal complaint to the Superintendent.
3. If the supervisor or Principal is the Respondent, the Complainant shall submit their formal complaint directly to the Superintendent.
4. If the Superintendent is identified as the Complainant or Respondent, the entire matter shall be directed to the Board. If the Superintendent is identified as the Complainant, it is the Board's decision as to whether to assign an outside investigator.
5. Upon receipt of a formal complaint, the Superintendent or designate shall, within ten (10) working days, carry out a preliminary review of the complaint to ensure that it is complete and determine whether or not there are reasonable grounds for investigation.

6. After determining that the complaint is complete and there are reasonable grounds for investigation, the Superintendent or designate shall promptly inform the Complainant, Respondent, and the supervisors of the Complainant and Respondent where applicable that a formal complaint has been received and will be investigated. Individuals who are named as Respondents in a complaint have a right to know in a timely manner that they are the subject of a complaint. In particular, a Respondent has a right to know the specifics of the allegation(s), including times, dates and alleged conduct and receive a copy of the complaint.
7. If at any point in the formal process, the parties mutually agree that the informal approach is more appropriate, the formal process may be suspended.

Formal Complaint Resolution Process

1. Complaints Involving Students:
   1.1. Where a formal complaint is received involving a student as the Complainant and/or Respondent:
      1.1.1. The Superintendent, within five (5) working days of informing the parties that a formal complaint has been received shall, assign the investigation to an investigator which may be the school principal or central office administrator or a designate;
      1.1.2. The investigator will conduct an investigation which will consist of personal interviews with the Complainant, the Respondent and others who may have knowledge of the incidents or circumstances that led to the complaint;
      1.1.3. The parents/guardians of the student Complainant and/or student Respondent as the case may be will be contacted at an appropriate time during the investigation where deemed appropriate by administration, taking into consideration the age of the child and the nature of the allegations being investigated.
      1.1.4. The investigator shall make a written report with the findings of the investigation and recommendations to the Superintendent within (30) working days from the date the Respondent is notified of the complaint;
      1.1.5. The Superintendent may extend the time lines depending on the circumstances;
      1.1.6. The Superintendent must review the report and determine a plan of action within ten (10) working days of receiving the report;
      1.1.7. The Superintendent shall communicate in writing their determination based on the results of the investigation to the parties and the parents/guardian of the Complainant and/or Respondent student unless the student is determined to be an independent student. Such communication shall be in accordance with the *Protection of Privacy Act*. Specifically, the information provided to the Complainant will be limited to the finding of whether or not harassment has occurred within the meaning of this administrative procedure, and whether or

not disciplinary action will be imposed as a result. The specific nature of any disciplinary action taken against the Respondent or others will not be disclosed to the Complainant or the parents/guardians of a Complainant;

1.1.8. When the Superintendent finds the complaint is valid, they shall determine appropriate disciplinary action and refer the Complainant and the Respondent to available supports such as the Division's Employee Assistance Program where applicable or other support resources within or outside of the school.

2. Complaints Not Involving Students:

2.1. Where a formal complaint is received and does not involve a student as the Complainant and/or Respondent:

2.1.1. The Superintendent, within five (5) working days of informing the parties that a formal complaint has been received shall, assign the investigation to an investigator which may be the Deputy Superintendent, Human Resources or designate;

2.1.2. The investigator will conduct an investigation which will consist of personal interviews with the Complainant, the Respondent and others, who may have knowledge of the incidents or circumstances that led to the complaint;

2.1.3. The investigator shall make a written report with the findings of the investigation and recommendations to the Superintendent within (30) working days from the date the Respondent is notified of the complaint;

2.1.4. The Superintendent may extend the time lines depending on the circumstances;

2.1.5. The Superintendent must review the report and determine a plan of action within ten (10) working days of receiving the report;

2.1.6. The Superintendent shall communicate in writing their determination based on the results of the investigation to both parties. Such communication shall be in accordance with the *Protection of Privacy Act*. Specifically, the information provided to the Complainant will be limited to whether or not harassment has occurred within the meaning of this administrative procedure, and whether or not disciplinary action will be imposed as a result. The specific nature of any disciplinary action will not be disclosed to the Complainant;

2.2. When the Superintendent finds the complaint is valid, he/she shall determine appropriate action which may include but is not limited to:

2.2.1. Discipline of an employee found to have committed an act of harassing or discriminatory behavior, which may range from a reprimand up to and including termination of employment;

2.2.2. Referral of the Complainant and Respondent to available supports such as the Division's Employee Assistance Program where applicable or other support resources within or outside of the school.

REFERENCES

Policy 532 – Healthy Interactions
Alberta Human Rights Act
Protection of Privacy Act
Occupational Health and Safety Act
Student Record Regulation

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