

<p>INTERLAKE SCHOOL DIVISION</p>	<p>Policy Number: B-6 Policy Title: Respectful Workplace Adoption Date: Amendment Date(s): April 9, 2012, November 14, 2016 Legal Reference: The Workplace Safety and Health Act, Guide for Preventing Violence in the Workplace, Guide for Preventing Harassment in the Workplace & The Manitoba Labour Act Cross Reference: Related Forms: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
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POLICY STATEMENT

The Board is committed to providing a safe working environment free of discrimination, harassment, and violence for all its employees and volunteers.

PROTOCOL

1. The Division will promote positive learning/working relationships through educational programs and supports.

INTERLAKE SCHOOL DIVISION	Reference Number: B-6(R1)
	Title: Workplace Harassment
	Department: Human Resources
	Legal Reference: The Workplace Safety and Health Act, Guide for Preventing Violence in the Workplace, Guide for Preventing Harassment in the Workplace, The Manitoba Labour Act
	Cross Reference:
Related Forms: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

1. The Interlake School Division is committed to providing a workplace in which individuals are treated with respect and dignity in accordance with the provisions of the Manitoba Human Rights Code and the Workplace Safety and Health Act. All employees of the Division have a right to work in an environment free of harassment.

Harassment is Against the Law The Workplace Safety and Health Regulation, M.R. 217/2006, and The Human Rights Code require all workplaces to be free from harassment.

Definitions:

- 1.1 **Harassment** Section 19(2) of The Human Rights Code defines “harassment” as:
 - a) A course of abusive and unwelcome conduct or comment undertaken or made on the basis of any characteristic referred to in subsection 9(2); or
 - b) A series of objectionable and unwelcome sexual solicitations or advances; or
 - c) A sexual solicitation or advance made by a person who is in the 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 is unwelcome; or
 - d) A reprisal or threat of reprisal for rejecting sexual solicitation or advance.
- 1.2 **Complainant** refers to the person who believes that he/she is being harassed and has filed a complaint with an administrator/supervisor of the School Division.
- 1.3 **Respondent** refers to the person against whom the complaint has been made.

- 1.4 Workplace** refers to any place where individuals perform work, or work-related duties or functions for the Interlake School Division. This includes, but is not limited to:
- i) The Division Office
 - ii) The Regional Office
 - iii) Schools
 - iv) Work related social events, and/or
 - v) Other locations where work-related activities take place and where employees or others covered under this policy perform work related functions

2. What constitutes Harassment?

- 2.1 Harassment** is defined by the Workplace Safety and Health Act as:
- i) Objectionable conduct that creates a risk to the health of a worker; or
 - ii) Severe conduct that adversely affects a worker's psychological well-being

Harassment is not about the person's intent. It is about how the behavior affected the victim.

- 2.2** Conduct is **objectionable**, if it is based on:
- race
 - creed
 - religion
 - colour
 - sex
 - sexual orientation
 - gender-determined characteristics
 - marital status
 - family status
 - source of income
 - political belief
 - political association
 - political activity
 - disability
 - physical size or weight
 - age
 - nationality, ancestry, or place of origin.

- 2.3** Conduct is **severe**, if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.

The Division interprets this to include any behavior that is known or should be known to be offensive, embarrassing, or humiliating to other individuals. Such conduct may include written, verbal, electronic media, and/or physical conduct.

Sexual Harassment may include:

- a) Unwanted, persistent or abusive sexual attention;
- b) A sexual advance or solicitation may be made by a person in a position to grant or deny a benefit which may affect the employment status of an employee where the individual knows or ought to reasonably know that this attention is unwanted;
- c) Sexually orientated behavior or remarks which create a negative psychological environment for work. Such behavior or remarks include, but are not restricted to:
 - Demeaning remarks based on gender
 - Suggestive jokes about sex
 - Inappropriate comments about clothing, physical characteristics or activities
 - Inappropriate displays of sexual pictures or materials
 - Derogatory terms, graffiti which degrades a person based on his/her sex or sexual orientation
 - Leering, ogling, and suggestive or insulting sounds
 - Unwanted questions or physical acts such as brushing up against one's body, patting, or pinching
 - Sexual assault (an offence under the Criminal Code)
- d) A reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

3. What Does Not Constitute Harassment

Reasonable actions by administrators or supervisors to help manage, guide, or direct workers or the workplace are not harassment. Appropriate employee performance reviews, counseling, or discipline by an administrator or manager is not harassment.

4. Rights and Responsibilities

4.1 Employees' Rights and Responsibilities

- a) Employees are entitled to work free of harassment.
- b) Employees have the responsibility to treat each other with respect, and are legally required to speak up if they, or others are being harassed.
- c) Employees have a responsibility to co-operate in the investigation of a harassment complaint.
- d) Employees have the right to file a complaint with the Manitoba Human Rights Commission. If the complaint is sexual assault, victims are encouraged to seek immediate medical attention and file a complaint with the police.
- e) Employees have the right to file a complaint with Manitoba's Workplace Safety and Health Division.
- f) The Interlake School Division's policy on Resolving Complaints Against Division Employees is not intended to discourage or prevent complainants from exercising any other legal rights pursuant to any other law.

4.2 Division's Responsibilities

- a) The Division will ensure, as much as is reasonably practical, that no employees are subjected to violence in the workplace.
- b) Management will take corrective action with anyone under their direction who subjects an employee to violence.
- c) The Division is legally required to protect its employees from retaliation.

5. Harassment Complaint Procedures

5.1 Step 1 – Informal Resolution

- a) When an individual feels that he/she has been harassed and is comfortable doing so, he/she is encouraged to advise the alleged harasser that the behavior is unwelcome and should stop. If the complainant is satisfied with the outcome, the process may be considered resolved at this stage.
- b) If this approach does not stop the unwelcome behavior, or when a complainant feels unable or is unwilling to use this approach, the individual is encouraged to approach their direct supervisor/ manager or school administrator (unless the supervisor/manager or school administrator is the alleged harasser in which case the Complainant may contact the Human Resources department directly and/or notify the appropriate Superintendent under Step 2).
- c) Those who feel they are being subjected to harassment are encouraged to keep a written log of all incidents, including dates, times, other individuals in the area, and detailed description of all events.

5.2 Step 2 – Supervisor/Manager/School Administrator Assisted Resolution

- a) While the Division recognizes that it will often be difficult to come forward with a complaint of harassment, it encourages all employees to do so. Individuals trained in responding to allegations of harassment will be made available in every division location for this purpose. The Complainant may contact their direct supervisor, manager, or school administrator (unless that person is the alleged harasser in which case the Complainant may contact the Human Resources department and/or notify the Superintendent).
- b) The person to whom a complaint of harassment is made under this policy shall provide guidance and advice to the Complainant.
- c) If the Complainant so requests, the supervisor, manager, school administrator, or other individual approached herein, may provide assistance to the Complainant in approaching the Respondent and requesting that the offensive behavior stop. This individual and the Complainant will jointly determine how best to approach the Respondent.
- d) In any case, if not informed in c) above, the Respondent shall be informed of the allegations against him/her and be

given an opportunity to respond using form [B6 (R1-F2)] the Respondents Response Statement form. How this information is relayed shall be determined by the supervisor/manager/school administrator, in consultation with the Complainant.

- e) Interventions to achieve a resolution at this stage may take, but shall not be limited to, any of the following forms:
 - Meeting with the parties to discuss the matter and set expectations for future behavior, and/or;
 - Referral to counseling/education on harassment and sensitivity issues, and/or;
 - A written apology and commitment by the Respondent to treat the Complainant with respect and dignity at all times in the future.
- f) Those to whom harassment is reported shall keep a confidential written account of all information they receive in conjunction with a complaint (this will include the attached “Statement of Complaint”, a copy of which will be submitted to the Human Resources department immediately).
- g) If a supervisor, manager, or school administrator assisted resolution between the parties is successful, this process terminates at this stage (a copy of the resolution shall be sent immediately to the Human Resources department).
- h) If the supervisor, manager, or school administrator assisted resolution is not acceptable, or if the complaint is not appropriate for informal resolution, it will be forwarded to Step 3 – Investigation (within two working days).

5.3 Step 3 – Investigation

- a) It is assumed that anyone who has a complaint of harassment has attempted (where applicable) to resolve the complaint prior to Step 3 – Investigation. However, this shall not deter any individual who feels they are being harassed from issuing a complaint directly to the Human Resources department. In these cases it is asked that the Complainant either fax the completed Statement of Complaint form directly to the attention of the Human Resources department or deliver the form in person.

b) Determination by Human Resources

Upon receipt of a complaint, Human Resources will, within two working days, make a determination whether the complaint, on its face, establishes a case of harassment under the Division's Workplace Harassment Policy and Procedures. The Human Resources department in making this determination will ask the following question:

Does the Respondent know, or should they reasonably know, that their behavior towards the Complainant is unwelcomed?

Generally this will result in the one of the following findings:

- That harassment as per the Workplace Harassment Policy is established on its face by the facts and circumstances raised, and the complaint shall proceed to investigation.
- That the facts and circumstances on their face do not disclose a case of harassment as per the Workplace Harassment Policy, but there is evidence of workplace conflict which must be addressed through more appropriate methods.
- That the facts and circumstances on their face do not disclose a case of harassment as per the Workplace Harassment Policy, and no further action is required.

Notwithstanding the timelines within these procedures, the Human Resources department may direct that a complaint be referred to any previous steps in the Workplace Harassment Procedures.

c) Appointment of the Investigation Committee

The Human Resources department shall appoint two or more investigators to investigate the complaint. The Investigation Committee will usually consist of the Complainant's supervisor and a trained Human Resources professional (if neither are parties to the complaint).

An individual who has assisted with a complaint at a previous stage may not serve on the Investigation Committee dealing with the same complaint.

The Human Resources department will determine the parameters of the investigation and the committee will report on the progress of their investigation as required.

6. Investigation

- a) The Investigation Committee shall conduct and complete its investigation within a maximum of twenty working days from the date the Investigation Committee was struck.
- b) The investigation shall include, at a minimum, the following components:
 - A meeting with the Complainant to review the Statement of Complaint and to seek any such clarification as needed;
 - A meeting with the Respondent for the purposes of communicating the allegation and receiving the Respondent's version of events (which may be requested in writing);
 - Collection of all relevant evidence, and;
 - Interviews with and/or receipt of written submissions from all witnesses the Investigative Committee considers to be material.

7. Preparing the Report

- a) The Investigative Committee shall prepare a Report setting out its findings and/or recommendations within a reasonable period (normally twenty working days from the date the Investigative Committee was struck).
- b) The investigators shall release their report to the Human Resources department, the Complainant, and the Respondent. Generally the findings will be one of the following:
 - The complaint of harassment is not substantiated by the evidence;
 - The complaint of harassment is not substantiated by the evidence but there are interpersonal conflict issues which need to be resolved through appropriate measures;

- The complaint of harassment is substantiated by the evidence, or;
 - The complaint of harassment is not substantiated by the facts and there is evidence that the complaint is frivolous, vexatious or made in bad faith.
 - The report shall also include, where applicable, any recommendations for corrective action in the workplace.
- c) There may be instances where the Investigative Committee determines that a complaint has been both unfounded and motivated by malice. In such cases the Human Resources department shall take any steps he or she deems appropriate.
- d) Response to the Report
- Within five working days of the receipt of the report, the Complainant and the Respondent shall respond to the report in writing in one of three ways:
 - They may accept the report (failure to act will be deemed acceptance of the report);
 - They may make further written submissions in response to the report, or;
 - They may request a further meeting at which the investigators may hear further evidence and/or receive submissions on a defined and specific factual matter.

8. Resolution

Disciplinary and Rehabilitative Actions:

Where a complaint of harassment is substantiated, disciplinary and/or rehabilitative action appropriate to the severity of the harassment will be assessed by the Human Resources department. Such action may include, but will not be limited to, one or more of the following:

- A formal apology
- Counseling and/or education on harassment
- A written warning
- Suspension without pay
- A disciplinary transfer
- The discharge of the employee

9. Other Remedies Not Precluded

Notwithstanding the existence of this policy and its procedures, every employee of the Division continues to have the right at any time to file a grievance, seek assistance from the Manitoba Human Rights Commission, seek redress under the Criminal Code of Canada, or to seek any other statutory or civil remedy that may be available, whether or not steps are being taken under this policy.

10. Confidentiality

All information provided by the complainant, including the name of a complainant, shall be kept confidential unless otherwise requires by law, or necessary to investigate the complaint, or take corrective actions with respect to the complaint.

- i. If the Complainant is a student or staff member, the information will not be placed in the Complainant's file unless the Complainant is found to be a frivolous or malicious complaint, or unless required by law.

Please describe what actions, if any, that you have taken to try to resolve this problem.

What resolution are you seeking?

Complaint's Signature

Date

Important – Please Read:

- 1. The filing of this complaint does not guarantee that an investigation will occur. The complaint will be reviewed and an assessment made by the employer as to whether an investigation is warranted and/or whether an informal resolution process should be pursued.**
- 2. This document and any attachments that you provide in the course of filing a complaint will be held in confidence. The complaint form and its attachments may be disclosed to the Respondent named in the complaint, as outlined in the policy procedures. Your signature confirms that you have been made aware and give permission for the above use of this information.**
- 3. Filing this complaint in no way limits your ability to consider other options such as a complaint under the Human Rights Code or filing of a grievance under a Collective Agreement.**

SUBMIT COMPLETED FORM TO YOUR IMMEDIATE SUPERVISOR IN A CONFIDENTIAL ENVELOPE.

Were you aware of the complaint prior to receipt of the formal complaint? Have you attempted to resolve the problem, and if so, describe what steps you have taken?

Do you have a proposed resolution? Please explain.

Respondent's Signature

Date

Important – Please Read:

- 1. The filing of this complaint does not guarantee that an investigation will occur. The complaint and response will be reviewed and an assessment made by the employer as to whether an investigation is warranted and/or whether an informal resolution process should be pursued.**
- 2. This document and any attachments that you provide in the course of filing a response will be held in confidence. The response form and its attachments may be disclosed to the Complainant. Your signature confirms that you have been made aware and give permission for the above use of this information.**

**SUBMIT COMPLETED FORM TO YOUR IMMEDIATE SUPERVISOR
IN A CONFIDENTIAL ENVELOPE.**

INTERLAKE SCHOOL DIVISION	Reference Number: B-6(R2)
	Title: Workplace Violence Prevention
	Department: Human Resources
	Legal Reference: The Workplace Safety and Health Act, Guide for Preventing Violence in the Workplace, Guide for Preventing Harassment in the Workplace, The Manitoba Labour Act
	Cross Reference:
Related Forms: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

1. Violence is against the law - The Workplace Safety and Health Regulation, M. R. 217/2006 and Canada's Criminal Code require workplaces to be free of violence.
2. What constitutes violence - Violence is the attempted or actual exercise of physical force against a person and any threatening statement or behavior that gives anyone reason to believe that physical force will be used against them.
3. Employees rights and responsibilities:
 - a. Employees are entitled to work free from violence.
 - b. Employees are responsible for working together in a professional manner and resolve issues in a non-violent manner.
 - c. Employees are to bring issues to their supervisor if they cannot be mutually resolved.
 - d. Employees must report incidents of violence to their supervisor.
 - e. Employees must cooperate in the investigation of a violent incident.
 - f. Anyone who gives evidence or information in an investigation, or is involved in the process must keep this information confidential, except when it is necessary to deal effectively with the issue.
 - g. Employees have the right to file a complaint with the police.
 - h. Employees requiring medical attention as a result of the assault are encouraged to do so immediately.
4. Division's responsibilities:
 - a. The Division will ensure, as much as reasonably practical, that no employees are subjected to violence in the workplace.
 - b. The Division will take corrective action with anyone under their direction who subjects an employee to violence.
 - c. The Division will not disclose the name of a complainant or the circumstances of the complaint to anyone except where disclosure is:

- i) Necessary to investigate the complaint
 - ii) Required to take corrective action
 - iii) Required by law
 - d. Any information that is disclosed will be the minimum required for the purpose.
 - e. The Division will ensure all employees are aware of the risks of violence in the workplace and are properly trained and equipped to protect themselves.
- 5. The Division, its managers and supervisors are responsible for creating a safe working environment that is free from violence. Anyone aware of violence in the workplace must bring it to the attention of management so the issue can be addressed immediately.
- 6. Potential areas in the workplace where violence may occur include school grounds, work rooms, lunch rooms, extra-curricular activities, reception areas etc. Steps to eliminate or reduce the risk of violence include:
 - a. Assessing the risk for workplace violence annually, or more often if something in the workplace changes, or a violent incident occurs.
 - b. Training receptionists and secretaries in Division workplaces to deal with emergency situations should they arise.
 - c. Notifications have been given to receptionist / secretaries of individuals who have been identified as potentially posing a threat or risk of violence.
 - d. Safe work procedures have been developed to inform and train employees about the risks of violence. Safe work procedures on violence prevention include:
 - i. Emergency response plan for injured workers
 - ii. Working alone or in isolation
 - iii. Dealing with the public
- 7. Any time there has been a change in the nature or extent of the risk of violence, the Division will provide employees with all of the information available, including personal information, within the limitations of the law. Information will be provided to the extent necessary for the purpose.
- 8. Reporting threats or incidents of violence:
 - a. If the situation has or is likely to escalate into a physical act of violence, contact the police immediately.
 - b. Report all threats or acts of violence to your immediate supervisor.
 - c. The supervisor will notify the division Safety Officer. If the incident meets the definition of a serious incident (M. R. 217/2006, Part 2.6), the Safety Officer will notify Manitoba Workplace Safety and Health.
 - d. The employee and the supervisor will complete a Violent Incident Report Form B-6 (R2-F1). The form must be completed for all incidents, whether the incident involves a threat or act of violence.

- e. The supervisor will report all incidents of violence to the Safety Officer and the Superintendent's Department as soon as possible, including the Workplace Violent Incident Report Form B-6 (R2-F1).

9. Incident Investigation

When an incident of violence has occurred or could reasonably be expected to occur, the following steps will be taken:

- a. The supervisor will advise any employees who may be at risk of violence and will notify the Superintendent's department and the division Safety Officer.
- b. If the incident meets the definition of a "serious incident" as defined by Part 2.6 of the Workplace Safety and Health Regulation, the Safety Officer will immediately notify Workplace Safety and Health and the co-chairs of the school based WSH Committee.
- c. The safety and health committee co-chairs, administrators/supervisors, and any other persons required, will complete an investigation into the incident using form B-6 (R2-F1).
- d. All information available and relevant to the violent incident will be provided to the investigation team.
- e. The investigation results will be summarized by the employer co-chair of the safety and health committee with a copy of the report given to the administrator/supervisor, Superintendent's department and the division's Safety Officer.
- f. The recommendations will be reviewed with the safety and health committee of the workplace.
- g. Progress on implementing any recommendations will be documented on the safety and health committee minutes. Once the recommendations have been implemented, staff will be notified and it will be noted on the safety and health committee minutes.

10. Annual report – Each investigation report will be included in an annual workplace violence report compiled by the division's Safety Officer. The annual report on violence will be provided to the Superintendent's Department and Workplace Safety and Health.

11. Follow up to violent incident

Employees who have been victims of violence will be:

- a) Encouraged to seek medical help from their healthcare providers or referred for post-incident counseling, if required
- b) Given the opportunity to be examined by a doctor and transported to a medical facility, if required.



WORKPLACE VIOLENT INCIDENT REPORT FORM

Date:

Time:

School/Office:

Location of Incident:

Brief Description of Incident:

Personal Injuries(if any):

Describe any necessary medical attention required:

Names of people involved (if known)

Names of Witnesses (if any)

Phone:

Property damage (if any):

Police Attended: yes no Officer's Name:

Police Action Taken:

Police File No.:

This report completed by: _____

Name

Signature

Recommendations:

Administrator's Signature

Date