

HARRASSMENT PROCEDURE

School Division Commitment

The Turtle Mountain School Division Board is committed to providing a safe and respectful work environment for all staff. No one, whether an administrator, teacher, support staff employee, or a member of the public, should be subjected to harassment for any reason, at any time. Also, no one has the right to harass anyone at work or in any employment situation. This procedure is one way to ensure our workplace within Turtle Mountain is a comfortable place for all our employees.

Harassment is Against the Law

The Workplace Safety and Health Regulation, M. R. 217/2006, and The Human Rights Code require Turtle Mountain School Division to ensure our workplace is free from harassment. All employees have a right to live and work without being harassed. This procedure outlines what to do if you are harassed at work or if you as an administrator or employee, become aware of any harassment.

N.B. Student to student harassment resolution is considered to be an in school matter to be dealt with by the school principal under the investigation and disciplinary measures established within the school and, therefore, is not a part of this policy.

What Constitutes Harassment

Usually harassment can be distinguished from normal, mutually accepted socializing. It is important to remember that the perception of the receiver of the potentially offensive message or action determines whether it is acceptable or not.

Harassment can take place in the workplace or outside of it in a situation connected to work, such as during trips, off-site meetings, or any type of extra curricular activity. Harassment will not be tolerated in the work place or at any work related event.

- I. Consistent with the Human Rights Code (Manitoba), Subsection 19(2) harassment is defined as:
 - A. A course of abusive and unwelcome conduct or comment directly related to the following:
 1. Ancestry, including color and perceived race;
 2. Nationality or national origins;
 3. Ethnic background or origin;
 4. Religion or creed or religious belief, religious association or religious activity;

5. Age;
 6. Sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
 7. Gender determined characteristics or circumstances other than those included in 6, above;
 8. Sexual orientation/gender identity;
 9. Marital or family status;
 10. Source of income;
 11. Political belief, political association or political activity;
 12. Physical or mental disability or related characteristics or circumstances, including reliance on a guide dog or other animal assistant, a wheel chair, or any other remedial appliance or device.
- B. A series of objectionable and unwelcome sexual solicitations or advances;
- C. A sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome;
- D. A reprisal or threat of reprisal for rejecting a sexual solicitation or advance.
- E. In addition, the Division also recognizes a course of abusive and unwelcome conduct or comment undertaken or made on the basis of medical circumstances or illness as harassment.
- F. Severe conduct that adversely affects a worker's psychological or physical well being.

For the purpose of the definition "harassment" in Section I, conduct is:

- a) objectionable, if it is based on race, creed, religion, color, sex, gender identity, 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; or
- b) 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.

II. Sexual harassment, as defined above, may include but is not limited to:

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- a. Sexually oriented verbal kidding or verbal abuse.
- b. Subtle pressure for sexual activity.
- c. Unwelcome touching such as patting, pinching, squeezing or repeated brushing against another's body.
- d. Suggestions or demands for sexual favors.
- e. Displaying derogatory materials such as pictures or cartoons which denigrate women, men or children.
- f. Ongoing derogatory remarks, jokes, innuendoes, propositions, teasing or threats.

Personal and psychological harassment

Personal and psychological harassment is also known as “bullying” and can include abuse of authority. This consists of abusive and unwelcome comments and behaviors or actions that offend, abuse, intimidate, humiliate, demean or cause loss of dignity to an individual and can often have the effect of interfering with a person’s work performance. Personal harassment can take place between peers and it can take place between individuals where there is a power imbalance.

Bullying

Bullying: occurs when there is a power difference or imbalance between the bully and the victim. Bullying can be a complex, unprovoked, aggressive act (verbal, physical, social or psychological) that typically is repeated over time, but it may also be a onetime event, with the intent of a person or group in a position of power, to oppress, hurt, or abuse undue stress to a victim, psychologically, socially, emotionally, or physically.

Acts of bullying can be directly or indirectly focused on the victim and include direct or indirect verbal, physical, and social acts of aggression, which also includes willful acts or attacks on the personal property of a victim

Acts of bullying can also include acts to hurt based on ability, culture, ethnicity, gender, sexuality, sexual orientation, physical appearance, age, religion, socioeconomic status, and willful acts on the personal property of a victim.

Cyberbullying

Cyberbullying is the use of information and communication technology to bully, embarrass, threaten or harass another student/person. It also includes the use of information and communication technology to engage in conduct or behavior that is derogatory, defamatory, degrading, illegal, and/or abusive.

Cyberbullying consists of covert, psychological bullying, conveyed through the electronic mediums such as (but not limited to) cell phones, texting, web-blogs, and on-

line social media platforms. It may also be verbal (over the telephone or cell phone) or written (threats, racial, sexual or homophobic harassment).

What Does Not Constitute Harassment

Harassment is not:

- a. Appropriate performance reviews, counseling, coaching or discipline by a supervisor or manager
- b. Day-to-day management or supervisory decisions involving work assignments or implementation of appropriate dress codes, provided they are carried out in a manner which is reasonable and not abusive.
- c. Physical contact necessary for the performance of work using industry or professional standards.
- d. Conflict or disagreements in the workplace that are not based on prohibited grounds and would reasonably be considered to be acceptable within a workplace setting,
- e. Occasional disagreements, thoughtlessness, or poor communication.
- f. Reasonable words or actions related to isolated stress or frustrations encountered in the performance of work duties.
- g. Consensual banter or conduct, or romantic relationships, where the people involved do not find it offensive or unwelcoming and consent to what is happening.

Employees' Rights and Responsibilities

Employees are entitled to work free of harassment in Turtle Mountain School Division.

Employees have the responsibility to treat each other with respect, and to speak up if they, or others are being harassed. All employees have a responsibility to report harassment to the appropriate person.

Employees also have the responsibility to co-operate in the investigation of harassment complaint. Anyone who gives evidence in an investigation or who is otherwise involved in the process must keep this information confidential, except when it is necessary to deal effectively with the complaint. Employees have the right to file a complaint with the Manitoba Human Rights Commission.

Employers' Responsibilities

Administration at Turtle Mountain School Division must ensure, as much as is reasonably practical, that no employee is subjected to harassment in the workplace.

Administrators will take corrective action with anyone under their direction who subjects, an employee to harassment.

Administrators will not disclose the name of a complainant or an alleged harasser or the circumstances of the complaint to anyone except where disclosure is:

- a) necessary to investigate the complaint or take corrective action
- b) required by law

The harassment prevention procedure in Turtle Mountain School Division is not intended to discourage or prevent complainants from exercising other legal rights under any other law. Turtle Mountain School Division and its administration are responsible for creating a safe work environment, free of harassment. All employees in Turtle Mountain are responsible for stopping harassment. If you become aware of harassment in your work area, or elsewhere in the division, you must do everything you can to stop it, whether or not a complaint has been made. Courts may impose penalties on employers and managers, even if they aren't actually involved in or aware of the harassment but should have known about it. Administrators who ignore harassment may face legal consequences, and may be disciplined by Turtle Mountain School Division.

PROCEDURES FOR HANDLING & RESOLUTION OF COMPLAINTS

A. Early Problem Resolution

The objective of early resolution is to resolve an alleged violation of a respectful workplace as soon as possible, in a fair and respectful manner without having to resort to the formal complaint process. Every effort will be made to resolve the issue early with open communication and in a cooperative manner. The use of problem resolution mechanisms such as coaching, counseling and facilitation can in many instances resolve the issue and prevent the situation from escalating to the point where filing a complaint is necessary.

A person who feels offended by the actions of another person in the Division is encouraged to make it known to that person as soon as possible in an attempt to resolve the issue. If the issue is not resolved at this point or if the offended person does not want to speak directly with the other person, the offended person will meet with his or her administrator in an attempt to find a solution and resolve the issue. An offended person may request that a mediator (either internal or external) be involved in an attempt to resolve the situation.

In the event that the Administrator/Supervisor is unable to resolve the issue or the Administrator/Supervisor determines the issue warrants the attention of the Principal, then the School's Principal will be notified. The School Principal must make every effort to resolve the issue between the parties as quickly as possible.

If an informal resolution is reached it will be documented and implemented, however any documentation will be maintained.

B) Complaint Process

If early resolution is not successful or is not deemed appropriate, the complainant may file a complaint with the School Principal or alternatively with the Superintendent/CEO. Complaints must be made or filed in a timely manner and no later than **six (6) months from the date on** which the event(s) took place.

If a complainant wishes to make a written complaint the following process will be followed:

Step 1 - Filing a Complaint

The complainant submits a written complaint which contains particulars of the allegations. This complaint should be submitted on or accompanied with a “Report of Harassment” form and submitted to the School Principal or the Superintendent/CEO.

Step 2 - Acknowledgement of the Complaint

Upon receipt of the complaint the School Principal or the Superintendent/CEO acknowledges receipt of the complaint in writing to the complainant and copies the acknowledgement form to the Superintendent/CEO.

Step 3 - Review of the Complaint

If it is determined from the initial review that the complaint is not a violation of the Code of Conduct policy (JICDA) the complainant is informed in writing and redirected to the appropriate avenue of recourse.

Step 4 - Investigation

If the School Principal or the Superintendent/CEO concludes from the initial review that a violation of the Code of Conduct policy (JICDA) may have occurred, he or she will initiate the investigation procedure. The format of the investigation is determined by the Division *with the input of the complainant* and may involve either an internal or an external investigator *if requested by the complainant and agreed to by the Division*. Prior to any interview of the respondent the respondent will be provided particulars of the complaint in writing, including the allegations. Both complainant and respondent have the right to be accompanied by a union representative or another person during the investigation process.

The Superintendent/CEO or designate will endeavour to resolve the matter and in doing so shall:

- i. Assume responsibility for ensuring the investigation of all such complaints is done in a confidential manner.
- ii. If necessary, take steps to ensure that there is no recurrence of the situation while the investigation is in progress.
- iii. Take appropriate disciplinary action where such is found to be warranted.
- iv. In writing, inform the complainant and the person against whom the harassment complaint has been lodged of the outcome of the investigation.
- v. In cases where the complainant is not satisfied with the outcome of the investigation, she/he may appeal to the School Board.
- vi. If through the investigation, the CEO / Superintendent/CEO or designate finds that there were no grounds for the complaint and that it was done willfully or maliciously, disciplinary action will be taken against the complainant.

Step 5 - Decision

The person who is conducting the investigation will make recommendations to the Division concerning the results of the investigation and the Division will then determine an appropriate response based on those recommendations. Both the complainant and the respondent will be advised in writing of the results of the investigation.

The Division will ensure that corrective and/or disciplinary measures are taken if determined to be appropriate. Documentation pertaining to the complaint and investigation will be maintained in a confidential file separate from the personnel files of either party unless disciplinary action results, which will be placed in the relevant personnel file

In the event that a complaint is determined to be frivolous or vindictive in nature, disciplinary action may be taken against the complainant. This does not apply to complaints made in good faith but which are not proven.

Step - 6 - Appeal

Where the respondent disagrees with the decision (findings or penalties) of the investigator or a complainant disagrees with a finding that a complaint has been filed frivolously, an appeal may be made in writing to the Superintendent/CEO within fifteen (15) working days of receipt of the decision.

Corrective Action for Harassers

Employees who harass another person will be subject to one or more of the following forms of discipline, depending on the severity of the harassment:

- A written reprimand
- A requirement to attend sensitivity training
- A suspension, with or without pay
- A transfer, if it is not reasonable for the people involved to continue working together
- A demotion
- Dismissal

If the investigation does not find evidence to support the complaint, there will be no documentation about it in the file of the alleged harasser. When the investigation reveals harassment occurred, the incident and the corrective action will be recorded in the harasser's personnel file.

Confidentiality

Turtle Mountain School Division will not disclose a complainant's or alleged harasser's name or any circumstances about a complaint, to anyone except where necessary to investigate the complaint; take disciplinary action; or where required by law.

Administrators involved in a complaint are reminded to keep all information confidential, except in the above circumstances.

Retaliation

Anyone who retaliates in any way against a person who has complained of harassment, given evidence in a harassment investigation, or been found guilty of harassment, will be considered to have committed harassment and be penalized accordingly. The possible penalties are the same as those previously noted.

Education

Turtle Mountain School Division is committed to keeping of all its employees and administrators aware of this policy and harassment in general.

Monitoring

Turtle Mountain School Division will monitor this policy and make adjustments where necessary.