

Policy Manual – Human Resources

H.M.11 Policy Against Harassment and Discrimination in the Workplace

The mission of Catholic Education in Hamilton-Wentworth, in union with our Bishop, is to enable all learners to realize the fullness of humanity of which Our Lord Jesus Christ is the model.

POLICY STATEMENT

The Hamilton-Wentworth Catholic District School Board (HWCDSB) is a Catholic learning community committed to providing a Christ centered, cooperative, inclusive and equitable work environment that is free from discrimination, harassment, sexual harassment, and any form of bullying in accordance with its shared beliefs, mission and vision. This commitment is enshrined in Church documents and the Ontario *Human Rights Code*, as well as the *Occupational Health and Safety Act*. In making this commitment, the HWCDSB recognizes the rich diversity of our social fabric and the benefits which diversity, equity and inclusion brings to all members of the HWCDSB Catholic community, and encourages the valuing of such differences, including those recognized in the *Ontario Human Rights Code*. The HWCDSB, through this policy, confirms the centrality of Jesus Christ in our lives, the adherence to the teachings of the Catholic Church and fosters respect for the dignity, self-worth and well-being of all members of the HWCDSB Catholic Community.

The HWCDSB will treat any complaint of discrimination or harassment as a serious matter and will respond in compliance with the HWCDSB values and legal responsibilities using a variety of interventions including investigations as appropriate. All reports and documentation gathered under this policy will be dealt with in confidence and in accordance with the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.

Policy Objective

The purpose of this policy is the following:

1. To clearly state the commitment of the HWCDSB to protect the dignity and rights of its employees and members of the HWCDSB community by denouncing and responding to any act of discrimination or harassment at any of its worksites.
2. To clearly state that all forms of discrimination and harassment are inconsistent with and undermine Catholic values, social teachings and ethical standards in the workplace, are contrary to the HWCDSB Mission and Vision, are unacceptable and will not be tolerated.
3. To acknowledge that the HWCDSB community celebrates, protects and promotes its Catholic identity, traditions and school curriculum, placing Christ and the teachings of the Catholic Church at its centre, which is protected by the HWCDSB's denominational rights consistent with Section 19 of the Ontario Human Rights Code and section 93 of the Constitution Act, 1867. At the same time, the HWCDSB is committed to providing an environment that is inclusive, safe and free of barriers based on religion. Where there is an apparent conflict between denominational rights and other rights, the Board will favour the protection of the denominational rights.

4. To advise and educate the employees and all parties covered under the policy that harassment and discrimination are prohibited under the laws of Canada and Ontario.
5. To advise and educate the employees and all parties covered under the policy of their roles and shared responsibility to foster a healthy, respectful and supportive work environment free from discrimination and harassment.
6. To advise and educate the employees and all parties covered under the Policy to make changes to their own behaviour when they become aware that there is a potential for such behaviour to amount to a violation of the policy.
7. To advise and educate the employees and all parties covered under the policy of the definitions of harassment, workplace harassment, workplace sexual harassment, and discrimination.
8. To confirm that this policy applies to all full-time, part-time, probationary, contract, temporary and casual employees as well as trustees, adult program students in temporary placements (e.g. Teacher's College candidates, Social Worker candidates, Speech and Language Pathologists candidates, etc.) and volunteers. This Policy also applies to consultative committee members, permit holders and employees of other organizations not related to the HWCDSB, but who work on or are invited onto HWCDSB premises. If the employee is no longer a HWCDSB employee but was at the time the harassment or discrimination took place, they too are covered under the Policy and can bring a concern forward or be the subject of a concern brought forward. If an employee is no longer an employee of the HWCDSB, their participation in a matter is voluntary. If an employee is on leave from the HWCDSB they cannot be compelled to participate in a matter while on leave and may choose to defer their response to the matter until their return.
9. To advise that this policy is applicable when any person covered under this policy:
 - a) Carries out duties or conducts business on behalf of the HWCDSB;
 - b) Represents the HWCDSB on committees or at work-related events, meetings or conferences (including virtual and online environments);
 - c) Attends work-related functions;
 - d) Experiences acts of behaviour covered under this policy which occur inside and outside the workplace and have negative repercussions at work or adversely affect working relationships. This also includes any form of harassment or discrimination that occurs in person, via phone, digital or virtual platforms, and all forms of written communication.
10. To advise that nothing under this Policy and its attendant administrative Guidelines and Procedures shall impede management from directing, supervising, assessing and evaluating employee conduct and performance in accordance with HWCDSB policies, Administrative Guidelines and Procedures and applicable collective agreements/terms and conditions of employment or service contracts.
11. To advise that nothing in this policy precludes employees from asserting their rights, pursuing other resolution options, or seeking redress through other statutory, contractual or legal rights and remedies (e.g., a grievance through the applicable collective agreement if they hold grievance rights, filing an application to the Human Rights Tribunal of Ontario, etc.).

Policy Procedures and Guidelines Objective

1. To advise that there is an administrative procedural document, *Guidelines and Procedures*

for addressing Harassment and Discrimination in the Workplace, which accompanies this policy document and governs the operational procedures regarding addressing harassment and discrimination in the workplace. In addition to the above information, the document addresses the following:

- a) The expectation of courteous and respectful conduct, interactions, communications and relationships in HWCDSB working environments.
 - b) The expectation of confidentiality throughout this process except in circumstances where mandatory reporting is required by law.
 - c) Definition of interpersonal conduct and conflict as covered by this policy.
 - d) Timelines for filing complaints and the complaints process.
 - e) Formal and informal complaint procedures.
 - f) Options for alternative dispute resolution.
 - g) Roles and responsibilities of HWCDSB administrators to take reported allegations of harassment, sexual harassment, and discrimination seriously and to take steps to address any potential safety needs and restore the workplace disrupted by policy violations.
 - h) Frivolous and vexatious complaints or complaints made in bad faith.
 - i) Interfering in an investigative process in any way including intimidating a complainant, respondent, or witness and/or influencing a person to give false or misleading information.
 - j) Confidentiality regarding the identity of and information disclosed by individuals acting as witnesses unless disclosure is necessary in order to take corrective or protective action or is otherwise required by law.
 - k) Regular training to all employees provided on the contents of this Policy and related procedure(s) consistent with the legislative requirements.
 - l) A summary of the findings of an investigation will be shared in writing with the complainant and respondent. Where a breach of the Human Rights Code or Policy is found, corrective and preventative action will be shared, including what steps the HWCDSB has taken or will take to best prevent a similar incident from occurring in the future.
 - m) The appeal process available regarding a determination arising from an investigation.
 - n) Any individual proven to have engaged in harassment, sexual harassment, or discrimination may be disciplined up to and including dismissal.
 - o) Record retention.
 - p) An employee can at any time seek resolution through their union or association, legal channels, the Ontario Human Rights Tribunal and/or the Ontario Labour Relations Board.
2. All employees will be required to acknowledge their review of the **Policy against Harassment and Discrimination in the Workplace** and **Administrative Guidelines and Procedures** on an annual basis.

Definitions:

- a) **Harassment:** Engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- b) **Workplace Harassment:** i) Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome or ii) Workplace sexual harassment.

What Workplace Harassment is Not:

Reasonable action or conduct by a Superintendent, Administrator, Manager, Officer, or Supervisor that is part of their normal work function would not normally be considered workplace harassment. This is the case even if there are sometimes unpleasant consequences for a worker.

For example, workplace harassment does not include:

- i) Requesting medical documents or other appropriate documentation to support an absence from work,
- ii) Measures to correct performance deficiencies such as placing someone on a performance improvement plan or criticism of an employee's conduct or performance,
- iii) Transfers to other departments or shifts,
- iv) Changes in work assignments,
- v) Time studies,
- vi) Job assessment or observations,
- vii) Enforcement of HWCDSB rules and procedures,
- viii) Adminstrating disciplinary action for workplace infractions or
- ix) Difference of opinions of minor disagreements between coworkers.

This Policy is not meant to inhibit the free speech of employees nor is it intended to interfere with the normal social relations that are part of working within a Catholic learning community.

- c) **Workplace Sexual Harassment:** (i) Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or (ii) Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.
- d) **Discrimination:** Unfair treatment based on race, ancestry, place of origin, colour, ethnic origin, language, citizenship, sexual orientation, sex/pregnancy, gender identity, gender expression, age, record of offences, marital status, family status, disability or creed (consistent with the HWCDSB's denominational rights under section 93 of the Constitution Act, 1867, and as recognized in section 19 of the Ontario Human Rights Code).

Responsibility: Director of Education

Regulations

- Canadian Charter of Rights and Freedoms, 1982
- Constitution Act, 1867

- Ontario Human Rights Code
- Accessibility for Ontarians with Disabilities Act
- Child, Youth and Family Services Act
- Criminal Code of Canada
- Education Act
- Ontario College of Teachers Act
- Municipal Freedom of Information and Protection of Privacy Act
- Occupational Health and Safety Act
- Personal Health Information Protection Act, 2004

Related Policies and Administrative Procedures

- Internet and Electronic Communications-Acceptable Use for Employees (A.11)
- Personal Electronic Devices – PEDs (A.12)
- Privacy Breach (A.17)
- Multi-Year Accessibility Plan (A.18)
- Integrated Accessibility Standards Regulations (A.19)
- Records Management (A.20)
- Equal Opportunity Employment (H.M. 10)
- Equity and Inclusive Education Policy (A.04)
- Employee Violence in the Workplace Prevention and Response (H.M.13)
- Respecting Home-School Relationships: Resolving Conflict Between Home and School
- “Shared Solutions”: A Guide to Preventing and Resolving Conflict Regarding Programs and Services for Students with Special Education Needs

Related Board Committee: Committee of the Whole

Policy Review Date

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To be reviewed every year