

Administrative Procedure 405

Respect and Inclusion in the Workplace: Understanding Harassment & Discrimination



Under the Ontario Human Rights Code (the *Code*), every individual has a right to equal treatment in the workplace, free from harassment and discrimination. The Limestone District School Board (“LDSB” or “Board”) is committed to providing a work and learning environment that promotes and fosters respect, diversity, equity, and dignity for every individual.

The Board will not tolerate, ignore, or condone any form of discrimination or harassment and is committed to promoting appropriate standards of conduct at all times. Harassment and discrimination adversely affect the workplace and individual well-being. Discrimination and harassment are serious forms of employee misconduct, which may result in disciplinary action up to and including dismissal. All LDSB community members are responsible for respecting the dignity and rights of their co-workers, the students they serve, and members of the broader community, and promoting and upholding the basic tenets of the *Code*.

The goals of this Procedure are:

- Describe the types of behaviour that may be considered offensive and are prohibited by this Procedure.
- Create a climate of understanding, mutual respect, and inclusion through increased awareness, early problem resolution, and the use of mediation, where agreed upon.
- Create an environment where each person feels a part of the LDSB community and can contribute fully to our core mission of preparing students to face a changing world as life-long learners, and informed responsible citizens, in a welcoming, safe, , inclusive, and dynamic environment.

1. Definitions

1.1. Allegation is an unproven assertion or statement based on a person’s perception that the Code or this Procedure has been violated.

1.2. Code Harassment is improper comment or conduct based on one or more of the prohibited grounds listed in the Code, that a person knows or ought to know would be unwelcome, offensive, embarrassing, or hurtful. Examples of Code harassment

Limestone District School Board

Limestone District School Board is situated on traditional territories of the Anishinaabe & Haudenosaunee.



based on a prohibited ground include, but are not limited to: slurs or derogatory remarks; threats; inappropriate jokes, innuendos, name-calling, teasing; insulting gestures; practical jokes which result in embarrassment; displaying pin-ups, pornography, racist, homophobic or other offensive materials; use of electronic communications such as the internet and e-mail to harass; actions that invade privacy; spreading rumours that damage one's reputation; refusing to work with another; condescending or patronizing behaviour; abuse of authority which undermines performance or threatens careers; unwelcome touching, physical assault or sexual assault.

- 1.3. Complaint is the formal claim or statement that asserts that discrimination or harassment occurred.
- 1.4. Discrimination is adverse differential impact, regardless of intent, based on a protected Ground of Discrimination under the Code that results in harm to an individual or group of individuals. Discrimination may arise as a result of direct differential treatment, or it may result from the unequal effect of treating individuals and groups in the same way. Either way, if the effect of the behaviour on the individual is to withhold or limit full, equal, and meaningful access to services, facilities, employment, or contracts available to other members of society, it is discrimination
- 1.5. Duty to Accommodate is the legal obligation of an employer to take steps to eliminate disadvantages caused by systemic, attitudinal, or physical barriers that unfairly exclude individuals or groups protected under the Code. It also includes an obligation to meet the special needs of individuals and groups protected by the Code unless meeting such needs would create undue hardship. Failure to accommodate a person short of undue hardship is a form of discrimination.
- 1.6. Employee means full-time, part-time, temporary, probationary and casual employees, co-op students, and volunteers



- 1.7. LDSB Community Members are co-op students, job applicants, parents/guardians, trustees, full-time, part-time, temporary, probationary, casual and contract employees, permit holders, vendors, service providers, contractors, volunteers, visitors, bargaining agents and associations, and all other persons invited to or who work on Board property
- 1.8. Equal Treatment means acting in a fair way that brings about an equality of results and may, in some instances, require different treatment. For example, to give all LDSB community members equal treatment in entering a building, it may be necessary to provide a ramp for individuals who require the use of a wheelchair.
- 1.9. Harassment is engaging in a course of vexatious comment or conduct which is known or ought reasonably to be known to be unwelcome. Harassment may be subtle, direct, or indirect. It may result from one incident or a series of incidents. Harassment may occur between any LDSB community members.
- 1.10. Personal Harassment is harassment that is not related to a prohibited ground identified in the Code. Personal harassment is improper comment and/or conduct, not related to a legitimate work purpose, directed at another person or persons in the workplace that the individual knows or ought to reasonably know would be offensive, harmful, derogatory, demeaning or cause humiliation or embarrassment. Personal harassment often involves a course of behaviours over time. However, a single serious incident of such behaviour that has a lasting harmful effect may also constitute personal harassment.

Examples of personal harassment include:

- Making remarks, jokes or innuendoes that demean, ridicule, intimidate or offend
- Displaying or circulating offensive pictures or materials in print or electronic



form

- Regular use of profanity and abusive language
- Repeated offensive verbal or e-mail threats and/or intimidation
- Targeting individual(s) in humiliating practical jokes
- Excluding, shunning, impeding work performance
- Spreading gossip, rumours, negative blogging, cyberbullying
- Retaliation, bullying, sabotaging
- Public humiliation
- Inappropriate sexual touching, advances, suggestions, or requests

Personal harassment does not include:

- Legitimate performance/probation management
- Appropriate exercise and delegation of managerial authority
- Operational directives
- A disagreement or misunderstanding
- Conflict between co-workers that include differences of opinion or minor disagreements
- Work-related change of location, co-workers, job assignment
- Appropriate discipline



- Less than optimal management
- A single comment or action unless it is serious and has a lasting harmful effect
- Rudeness unless it is extreme and repetitive

1.11. Poisoned Work Environment is a form of indirect harassment/discrimination. It occurs when comments or actions ridicule or demean a person or group creating real or perceived inequalities in the workplace. Pornography, pin-ups, offensive cartoons, insulting slurs or jokes, and malicious gossip (even when they are not directed towards a specific person or group of persons) have been found to “poison the work environment.” A single remark or conduct can be severe enough to create a poisoned work environment.

1.12. Prohibited (Protected) Grounds are the list of grounds related to employment for which a person or group is protected under the Code. The prohibited grounds include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (includes pregnancy, breastfeeding, gender identity), sexual orientation, age, record of offences, marital status, family status, disability. Under the Code and this Procedure, there are protections where there is a perception that one of the above grounds applies or where you have been treated differently because of an association or relationship with a person identified by one of the above grounds.

1.13. Racial Harassment is harassment on the ground of race. It may also be associated with the grounds of colour, ancestry, where a person was born, a person’s religious belief, ethnic background, citizenship, or even a person’s language.

Racial/ethnic harassment and/or discrimination can include racial slurs or jokes, ridicule, insults, or different treatment because of your racial identity, posting/e-mailing cartoons or pictures that degrade persons of a particular racial group, name-calling because of a person’s race, colour, citizenship, place of origin,



ancestry, ethnic background, or creed, hate-related behaviours/crime

1.14. Reprisal is an action or threat, either direct or indirect, intended as retaliation for claiming or enforcing a right under the Code. A person can allege reprisal without an official complaint of a violation of the Code or actual infringement of a right.

Reprisal includes retaliation against an individual for:

- Exercising their rights under this Procedure
- Initiating a complaint in good faith
- Investigating a complaint
- Being a decision-maker in a complaint
- Participating as a witness in an investigation
- Being a respondent to a complaint, or
- Having been associated with or representing a complainant, witness, or respondent.

1.15. Sexual Harassment is engaging in a course of vexatious comment or conduct against an individual because of sex, sexual orientation, gender identity, or gender expression. This includes a sexual advance or solicitation from anyone if they know or ought to know the advance is unwelcome, especially if the advance is from a person in a position to give or deny a benefit or to engage in reprisal or if a threat of reprisal is made if the advance is rejected. Other examples are sexually suggestive or obscene remarks or gestures, leering (suggestive staring) at a person's body, unwelcome physical contact, having to work in a sexualized environment (bragging about sexual prowess, or discussions about sexual activities), circulation or posting of sexist jokes or cartoons, display of pin-up calendars or other objectifying images, negative stereotypical comments based on gender, sex or sexual orientation and



gender-related comments about an individual's physical characteristics or mannerisms.

- 1.16. Workplace includes all schools, offices, buildings, or property in or on which the Board conducts business. Included are district-related activities, such as sanctioned social functions or business performed at any other location away from the district schools or buildings, during or outside of normal working hours.

2. Workplace Harassment & Discrimination

Dealing with harassment can be a complex matter given that what one individual may deem to be appropriate behaviour, another individual may deem as harassment. There is no legal obligation for an individual to tell a harasser to stop. The fact that a person does not explicitly object to harassing behaviour or appears to be going along with it does not mean that the behaviour is not harassing or that it has been consented to.

It should be noted that the proper exercise of one's authority or responsibility does not generally constitute harassment. This Procedure is not intended to interfere with constructive feedback regarding performance or operational directives from supervisors or managers.

- 2.1. The Code provides every person in the workplace the right to freedom from harassment and discrimination based on citizenship, race, place of origin, ethnic origin, colour, ancestry, disability, age, creed, sex/pregnancy, family status, marital status, sexual orientation, gender identity, gender expression, receipt of public assistance (in housing), record of offences (criminal conviction for a provincial offence, or for an offence for which a pardon has been granted), association or relationship with a person identified by any of the aforementioned grounds.
- 2.2. The Code also recognizes a poisoned work environment as a form of discrimination and protects people from reprisal or threats of reprisal. No individual shall be negatively treated for bringing forward a complaint, providing information related



to a complaint, or assisting in the resolution of a complaint. A failure of the duty to accommodate is also a form of discrimination. This Procedure recognizes that people may experience discrimination and harassment based on the intersection of multiple grounds of discrimination.

2.3. The Board goes beyond these requirements by addressing other types of workplace harassment and objectionable behaviours that are not related to the grounds prohibited under the Code, such as personal harassment, which may include rude, degrading or offensive remarks or e-mails, threats or intimidation, union or staff association, and political affiliation. Workplace harassment can also include incidents that happen away from work such as inappropriate phone calls, e-mails, or visits to an LDSB community member's home or after-work socials.

3. Roles and Responsibilities

3.1. An educational community is a place that promotes responsibility, respect, civility, equity, diversity and inclusion, and academic excellence in a safe learning and teaching environment. Within this environment, everyone is responsible for:

- Respecting differences in people, their ideas and opinions
- Treating one another with dignity and respect at all times, particularly when disagreement occurs
- Respecting the rights of others
- Fostering inclusive learning and working environments
- Demonstrating proper care and regard for Board property and the property of others
- Demonstrating honesty and integrity



- Respecting the learning and working environment

3.2. This Procedure applies to all LDSB community members which includes co-op students, job applicants, parents/families, trustees, full-time, part-time, temporary, probationary, casual and contract employees, permit holders, vendors, service providers, contractors, volunteers, visitors, bargaining agents and associations, and all other persons invited to or who work on Board property. This Procedure applies to events that occur outside the physical workplace, such as conduct online, on social media, or during visits to an LDSB community member's home or after-work socials, where such conduct may have a real and material implication for the learning or working environment. All LDSB community members are expected to abide by this Procedure and the Code by refraining from any form of harassment and discrimination and fully co-operating in any investigation of a harassment or discrimination complaint.

3.2.1. Where any member of the public, such as parents/guardians, visitors to Board facilities, or individuals conducting business with the Board, violate this Procedure, the Director of Education, or designee, will take appropriate steps to address harassment in the workplace, including barring the harasser from its facilities, where appropriate, or discontinuing business with contractors or consultants.

3.3. Management staff, including senior managers, school administrators, departmental managers and supervisors, and human resources staff have obligations under the Code as well as this Procedure. Under The Code, management can be held personally liable for failing to take appropriate action. All management staff is expected to follow the general responsibilities set out below with respect to human rights:

- Provide leadership in creating and maintaining harassment-free, respectful workplaces, including being aware of and sensitive to workplace dynamics



and taking appropriate action upon becoming aware of discriminatory and/or harassing conduct

- Not engaging in behaviour that would constitute discrimination or harassment under the Procedure
- Acquiring a thorough knowledge and understanding of the Procedure, including what constitutes harassment and discrimination
- Educating employees on the Procedure, including roles and responsibilities and establishing and enforcing standards of appropriate workplace conduct
- Being able to advise staff of their rights and responsibilities under the Procedure
- Taking all reasonable steps to deal with alleged workplace discrimination and harassment that they are aware of or reasonably should have been aware of (even if a direct complaint has not been made), in a timely fashion while maintaining as much confidentiality as possible
- Monitoring situations where discrimination or harassment has occurred, to confirm the behaviour has stopped, implementing appropriate measures to prevent reoccurrence, and communicating decisions or actions to the individuals concerned
- Supporting individuals who have been targets of harassment or objectionable behaviour, including following up with individuals who have been targets to understand how they are feeling/doing. This may include accessing Federation/Union resources in support of the process.
- Consulting with Human Resources where there may be a perceived or real conflict of interest in addressing an alleged Procedure violation



- Consulting with the Human Rights and Equity Advisor when there are allegations of violation of this Procedure.

3.4. The Human Rights and Equity Advisor and Human Resources will provide leadership and advice in investigating and resolving allegations of harassment and discrimination. All complaints will be dealt with in an unbiased, confidential, and impartial manner, the goal being to prevent, correct, and remedy harassing and/or discriminating behaviours and provide support to affected individuals. The Human Rights and Equity Advisor and Human Resources are responsible for:

- Interpreting and implementing this Procedure
- Integrating equity principles into all human resources activities
- Removing barriers in employment Procedures and practices that may have the effect of discriminating against specific groups or individuals
- Identifying, declaring, and addressing perceived or real conflicts of interest in responding to an alleged violation of this Procedure, including securing the services of neutral, third-party investigators, where appropriate.
- Monitoring selection processes to ensure that they are barrier-free
- Assessing the merits of a complaint and determining the appropriate complaint investigation and resolution options, including whether concern(s) can be referred to site/departmental management to address
- Leading neutral, independent workplace investigations, where appropriate (formal or informal)
- Arranging for neutral third-party mediation services, where appropriate
- Provide training for administrators, managers, supervisors, and employees on



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- Informing relevant Federation/Union, as appropriate, of situations to support and/or represent those involved
- Following up with individuals who brought concerns forward to see how they are doing

3.5. Employees will:

- Be familiar with their rights and responsibilities under the Procedure and The Code
- Refrain from engaging in behaviour that constitutes discrimination or harassment under the Procedure
- Identify concerns as soon as possible if they believe they have been discriminated against or harassed
- Document details of the harassment and/or discrimination that are experienced or witnessed and be encouraged to report incidents of harassment, discrimination, or retaliation that they experience or witness. It should be noted that the requirement for teachers to submit an adverse report is waived in this situation.
- Not be bystanders to harassing or discriminatory conduct
- Where deemed appropriate, and both parties agree, actively engage in intervention/mediation processes
- Cooperate in investigations to resolve human rights issues
- Maintain confidentiality related to human rights interventions and/or investigations



4. Harassment and Discrimination Prevention Education & Training

4.1. The Board is committed to providing training and education to ensure that all Board staff has knowledge about their rights and responsibilities under this Respect & Inclusion in the Workplace Procedure: Understanding Harassment & Discrimination.

5. Reporting Harassment and Discrimination

5.1. Individuals who believe that they have been subject to harassment or discrimination or who believe they have witnessed harassment or discrimination of another individual should follow Administrative Procedure 406: Respect & Inclusion in the Workplace: Reporting and Investigating Workplace Harassment & Discrimination.

6. Procedure Posting

6.1. The Respect and Inclusion in the Workplace: Understanding Harassment & Discrimination Procedure shall be in written form and shall be posted in a conspicuous place at each worksite

7. Procedure Review

7.1. The Respect & Inclusion in the Workplace: Understanding Harassment & Discrimination Procedure must be reviewed as often as is necessary or as otherwise provided for through collective agreement and/or regulatory provisions, but at least annually.

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Legal References:

Ontario Human Rights Code

Ontario Occupational Health & Safety Act

Related Procedures:

Administrative Procedure 407: Violence in the Workplace

Administrative Procedure 406: Respect & Inclusion in the Workplace: Reporting and Investigating

Administrative Procedure 415: Employee Progressive Discipline