



KAWARTHA PINE RIDGE DISTRICT SCHOOL BOARD

ADMINISTRATIVE REGULATION

**Regulation Name: Human Rights: Code-Based
Discrimination and Harassment**

Regulation Code: B-3.3.1

Section: Board and Community

Policy Code Reference: B-3.3

Established: October 25, 2022

Revised or

Reviewed:

1. OBJECTIVE

For members of the Kawartha Pine Ridge District School Board (the Board), this administrative regulation outlines the complaint processes for addressing allegations of discrimination and/or harassment that violate Ontario’s Human Rights Code (the Code). It assumes that all members of the Board community (including staff, management, union/federation/association, students, parents, and other community members) who are a party to the human rights complaint involving the Code procedure will, in all instances, endeavor to adhere to forging an anti-discrimination and anti-harassment cul AODA Accessibility for Or

Code
Human Rights Code

COHREA
Commissioner’s Office of Human Rights, E

EAP
Employee and Family Assistance Program

HREA Commissioner
Human Rights, Equity and Accessibility Co

HRTO
Human Rights Tribunal of Ontario

2.1 Accompanying Person

Any person(s) chosen by a Complain
COHREA consultation. An accompa

capacity and does not act as an advocate, representative and/or agent with an interest in the matter. In the case of a student¹, it is assumed that a parent or guardian would be an accompanying person. For unionized staff members, an accompanying person would normally be a union or federation executive member from the bargaining unit to which the employee belongs unless a member states otherwise. For non-union staff members, an accompanying person is any person of the staff member's choosing that understands the role and requirement of confidentiality. The following people may also provide support:

- x a parent/guardian or caregiver,
- x a school or department staff member,
- x a union, federation or association representative,
- x a colleague, and/or
- x a translator/interpreter.

An accompanying person must, and is expected to always maintain, confidentiality and details such as: the accompanying person's name and relationship to the Complainant/Respondent. This information must be supplied to COHREA, at least twenty-four (24) hours prior to any consultation.

2.2 Adverse Effect Discrimination²

A situation that unintentionally singles out particular people and results in unequal treatment. It exists in a situation where a requirement, qualification or factor exists that is not overt discrimination but results in the exclusion of, restriction of, or preference for a group of persons.

2.3 Allegation

An unproven claim or assertion that someone has done something wrong based on one's belief that a violation of the Board's harassment/discrimination policies has occurred.

2.4 Balance of Probabilities

The standard of proof where a proposition is determined as reasonable and more probable than not or more likely than not upon review of relevant facts and circumstances that make up all the evidence before a reviewer.

2.5 Board

A reference specifically pertaining to the Kawartha Pine Ridge District School Board (also referred to as KPRDSB/KPR) as a legal entity.

2.6 Complainant

A person who is a member of the Board community who brings forward a concern and/or makes a formal or informal complaint alleging that discrimination and/or harassment has occurred under a protected ground under the Code.

2.7 Records of Complaints

Records of formal human rights complaints files with the COHREA are retained at its office. Such records are maintained in accordance with Board Policy BA-1.1, Records Management and Board Policy BA-1.8, Privacy and Information Management.

2.8 Respondent

A person against whom a complaint is made who is responding to or in opposition to a complaint made by the Complainant.

2.9 Restorative Practice

A process or processes that focus on mending harm experienced by others with the goal of repairing and rebuilding relationships when reviewing actions, and behaviours and conduct that are the determined to be the sources of conflict. In education, it is used as part of progressive discipline to build, strengthen and help in nurturing and restoring healthy relationships.

2.10 Senior Administrator

Anyone employed iedlre part of prog-5.3 (ng a)-6 (c)10.6 (t)-5.3 (.(.10)TjeTg)11.3 partS15 Td(2

3. APPLICATION

3.1 Relationship to Other Board Policies

There are specific Board policies for addressing complaints pertaining to issues and concerns that involve non-Code matters. When reviewing a complaint under this policy, a key consideration is to determine if this policy applies or if the facts and circumstances suggest that matter would fall under a different Board policy. In considering the application of a different Board policy for addressing a complaint, community members are directed to one of the following processes that may be applicable:

3.1.1 Complaints against a trustee will be addressed under Board Policy B-1.2, Code of Conduct.

3.1.2 Incidents of workplace harassment and/or behaviour including physical and/or sexual assault must be formally reported and investigated in accordance with response measures outlined in Board Policy HR-4.2, Workplace Harassment and its associated administrative regulation.

3.2 Early Resolution Encouraged at Point of Occurrence

Notwithstanding encouraging individuals to resolve their concerns through dialogue, it is important at first instance, for all issues to be initially addressed and resolved at the point and place of occurrence (i.e., school or staffing department). While parties to a complaint are always encouraged to opt for early resolution, this does not disallow matters to be brought to the COHREA at a later date.

3.3 No Bar to Filing Application with the Human Rights Tribunal of Ontario

The procedures outlined in this administrative regulation should not be assumed and/or interpreted as a prohibition to prevent or discourage a person from filing an application with the HRTO within the deadlines set out in Ontario's Human Rights Code or a person's right to pursue any other external legal options that may be available.

4. RESPONSIBILITY

- 5.1.3.4 consult with the COHREA directly regarding possible actions,
- 5.1.3.5 initiate an informal complaint with a request for early resolution to their appropriate principal, manager and or supervisor by submitting a request for early resolution, and/or
- 5.1.3.6 file a formal complaint using the COHREA Complaint Form (subsequent to a determination following COHREA review and Preliminary Assessment).

5.2 Complaint Procedures

5.2.1 General

All persons covered under this administrative regulation are responsible for contributing and maintaining a climate of understanding and mutual respect for the rights and dignity of each person. However, any member of the Board community who believes they have been subjected to Code-based discrimination and/or harassment may choose to engage in the following before filing a formal complaint:

- 5.2.1.1 wherever possible and practical, make it known to the person who is causing the offense, that the behaviour is unwelcome and ask that all offensive behaviour stop. The goal is that the individual will work with the person raising the concern to make all reasonable efforts to resolve the matter. If an individual is not comfortable approaching the person causing the offense or an individual is approached and the behaviour does not stop, discuss the concerns with the immediate supervisor or another member of management;
- 5.2.1.2 in the case of a student/parent/guardian/caregiver's concern, bring it forward to the principal or vice-principal of the school or another adult in the school that the student and/or parentr/or

- 5.2.1.4 seek advice/guidance/support from the relevant union/federation/association (where applicable);
- 5.2.1.5 seek advice/guidance/support from the relevant manager/supervisor (where applicable);
- 5.2.1.6 seek advice/guidance/support from the school principal and/or vice-principal (where applicable);
- 5.2.1.7 seek advice/guidance/support from a trusted teacher in the school (where applicable);
- 5.2.1.8 contact the COHREA (via the confidential online Report IT! form) detailing the issues/concerns, even if there may not be an immediate interest in filing a complaint;
- 5.2.1.9 if eligible, utilize the Employee and Family Assistance Program (EAP) where concerns of mental health and wellbeing arise.

5.2.2 Parallel or Dual Processes

Nothing in these administrative regulations prohibits or limits access to any other avenues of redress available under the Code, the Occupational Health and Safety Act and/or through filing of a grievance. The Board's internal complaint resolution process provides for an investigation that is appropriate specific to circumstances, resulting from an incident/complaint of Code-based discrimination/harassment. The superintendent responsible for the area, in consultation with the HREA Commissioner, may decide to postpone, suspend, or cancel any process/investigation regarding a complaint if the continuance of the process/investigation would duplicate and/or prejudice (damage) another process already underway in addressing the matter. In coming to such a decision, factors considered include:

- 5.2.2.1 the Board's overarching responsibility to employ every effort to positively resolve harassment and discrimination complaints,
- 5.2.2.2 recognition that grievances may have been filed simultaneously with a human rights complaint. In such cases one matter may be held in abeyance until the other process is complete and/or,
- 5.2.2.3 other legal processes may have already been initiated and there is a need to protect the integrity of that process (i.e., Application

5.3.1.3 Community Members

Community members which include parents/guardians/third-party contractors wishing to file a complaint of alleged Code-based discrimination and/or harassment should always report through the Board's Report IT! confidential online reporting tool so that the matter is tracked, assessed and a determination is made on where it is to be addressed.

5.3.2 Respondent Category

If a complaint is against one of the following KPR members, the below procedure should be followed:

5.3.2.1 Trustees

Incidents/complaints against a trustee, alleging Code-based discrimination and/or harassment should always be reported through the Board's Report IT! confidential online reporting tool so that it is tracked and forwarded to the Board's Code of Conduct Committee through the Chairperson of the Board and will be addressed under Board Policy B-1.2, Code of Conduct pertaining to Board trustees.

5.3.2.2 Director of Education

Incidents/complaints against the Director of Education, alleging Code-based discrimination and/or harassment should always be reported through the Board's Report IT! confidential online reporting tool for tracking and forwarding to the Chairperson of the Board for assessing the merit of the complaint and whether to engage the services of a third-party external investigator.

5.3.2.3 Supervisory Officer

Incidents/complaints against a superintendent, alleging Code-based discrimination and/or harassment should always be reported through the Board's Report IT! confidential online reporting tool and will be forwarded to the Director of Education, who may counsel from the HREA Commissioner on next steps.

5.3.2.4 Members of the Public

Incidents/complaints of alleged Code-based discrimination and/or harassment against a member of the public by Board staff

5.4. Informal Resolution Process

The following options are available to students, employees, volunteers, and community members who allege Code-based discrimination and/or harassment:

5.4.1 Options in Informal Resolution Process

The following options are available to students, employees, volunteers,

- x assist the Complainant on process for initiating a formal complaint.

5.5 Formal Complaint Process

5.5.1 Participants under Formal Complaint Process

5.5.1.1 The participants involved in the Formal Complaint Process include the Complainant, the Respondent (i.e., the alleged harasser), an investigator who can be the superintendent responsible for the area in which the incident is alleged to have occurred, and an assigned staff from Human Resource Services when the respondent is an employee and/or an assigned staff from the COHREA.

5.5.1.2 In matters related to employ-1.15 0 Td(P)8o 0 Td(P5)Tj(.1 M CID 11Tc -0.006

5.5.8.4 notify the Respondent(s) of the complaint as soon as practicable.

on the evidence and information provided, the event was more likely than not to have occurred.

5.5.10 Formal Investigation – Potential Outcomes

The following actions may be taken subsequent to an investigation and findings:

- x counseling for one or both parties,
- x strategies to restore a positive working and learning environment, including, but not limited to, a joint meeting of Complainant(s) and Respondent(s) to determine future operating norms,
- x training for one or both parties,
- x workshops,
- x restorative approaches,
- x disciplinary action in accordance with applicable Board policies and administrative regulations; and/or any other appropriate action.

5.6.

under the Ontario Human Rights Code, and/or the Education Act or any other relevant legislation and/or legal process.

- 5.7.7.3 In accordance with the Municipal Freedom of Information and Protection of Privacy Act or other applicable legislation, every attempt will be made throughout the complaint resolution process to respect the confidentiality and personal rights of all parties to the complaint.
- 5.7.7.4 Information about the complaint is provided only to those who need to know to investigate and/or resolve the complaint. Where appropriate, the person will be consulted before any disclosure of information is made.
- 5.7.7.5 Parties involved in a complaint must, and are expected to, maintain confidentiality, as breaches of confidentiality may jeopardize the proper functioning of the processes outlined in this procedure. If breaches of confidentiality should occur, this would be reviewed and depending on the circumstances, could lead to consequences for the person(s) responsible for the breach.
- 5.7.7.6 Any person conducting a mediation of a complaint may not be called to testify in a subsequent proceeding in relation to information disclosed during mediation, unless ordered or compelled by a court, tribunal, or arbitrator.
- 5.7.7.7 Specific details of any investigation involving individuals including, but not limited to, the outcome, will only be disclosed to those who require the information to execute their duties. Where applicable or as required by law, investigators may be required to disclose information about the investigation.

5.7.8 Advisory Role of Human Rights, Equity and Accessibility Commissioner

The HREA Commissioner provides expertise on the Code to all persons conducting investigations in instances where the Human Rights Policy and Administrative Regulation is applied.

5.7.9 Conflict of Interest by Accompanying Person

- 5.7.9.1 Where a party is a member of a bargaining unit, that party may be accompanied by their union/federation/association, provided that no conflict arises in doing so and the union steward does not

5.7.9.2 Where a party is not a member of a bargaining unit, that party may be accompanied by a support person, provided that no conflict arises in doing so and the support person agrees to sign a confidentiality agreement and to be bound by the confidentiality of the process and does not interfere in the process.

5.8 Records Retention

5.8.1 Informal Processes/Interventions

All records related to informal processes/interventions under Board Policy B-3.3, Human Rights: Code-Based Discrimination and Harassment will be maintained by the supervisory officer whose area addresses the concern. If the supervisory officer leaves the Board all documents will be forwarded to Human Resource Services. All informal resolutions under this policy and will be retained for the year it occurs plus two additional years.

5.8.2 Formal Processes/Interventions

All investigation records related to formal investigations conducted under Board Policy B-3.3, Human Rights: Code-Based Discrimination and Harassment will be maintained in accordance with Board Policy BA-1.1, Records Management and Board Policy BA-1.8, Privacy and Information Management.

6. RELATED POLICIES, ADMINISTRATIVE REGULATIONS OR PROCEDURAL DOCUMENTS

Board Policies:

[B-1.1, Board Operation and Policy Development and Management](#)

[B-1.2, Code of Conduct](#)

[B-3.2, Equity, Diversity and Inclusion](#)

[B-3.3, Human Rights: Code-Based Discrimination and Harassment](#)

[BA-1.1, Records Management](#)

[BA-1.8, Privacy and Information Management](#)

[ES-1.1, Safe and Caring Schools](#)

[ES-3.8, Special Education](#)

[HR-4.1, Occupational Health and Safety](#)

[HR-4.2, Workplace Harassment](#)

[HR-4.6, Disconnecting from Work](#)

[HR-5.1, Code of Ethics for Employees](#)

[HR-5.3, Code of Conduct for Employees](#)

Administrative Regulations:

[HR-4.6.1, Disconnecting from Work](#)

[HR-5.1.1, Code of Ethics for Employees](#)

7. REFERENCE DOCUMENTS

Legislation:

[Accessibility for Ontarians with Disabilities Act](#)

[Canadian Charter of Rights and Freedoms](#)

[Education Act](#)

[Human Rights Code](#)

[Occupational Health and Safety Act](#)

[Municipal Freedom of Information and Protection of Privacy Act](#)