



Policy: GBE
Subject: Respectful Workplace

Policy:

Red River Valley School Division Board of Trustees is committed to providing a working environment in which all individuals are treated with respect and dignity.

Protocol:

Each individual has the right to work in a professional atmosphere that promotes equal opportunities and prohibits discriminatory and harassing practices. Red River Valley School Division tries at all times to provide a work environment that is supportive, respectful, cooperative and understanding.

Harassment and Discrimination as defined by the Manitoba Human Rights Code are illegal and are behaviours which are considered discordant with the standard of conduct required by an employee of the Red River Valley School Division.

Procedure:

Red River Valley School Division is committed to fostering a learning and work environment that is free of harassment and discrimination and one in which all individuals are treated with respect and dignity. Every member of within the Red River Valley School Division has the right to equal treatment with respect to employment and educational services without harassment or discrimination on the basis of the grounds protected by the Manitoba Human Rights Code and the Canadian Human Rights Act.

Manitoba Human Rights Code: <http://web2.gov.mb.ca/laws/statutes/ccsm/h175e.php>

Canadian Human Rights Act: <http://laws-lois.justice.gc.ca/eng/acts/h-6/>

A right to freedom from harassment and discrimination is also infringed where someone is treated unequally because she/he is in a relationship, association or dealing with a person or persons identified by the above mentioned grounds of discrimination.

Harassment and discriminatory behaviours are offensive, degrading and/or illegal. Every employee of the Red River Valley School Division is responsible for creating and nurturing an environment which is free from harassment and discrimination. Individuals acting on their own behalf and/or on behalf of the Division and the Division itself can be held responsible under this policy and under Provincial Law.

Those found to have engaged in such conduct on the basis of an allegation and subsequent investigation will be subjected to disciplinary action. Those found to have been harassed or discriminated against on the basis of the grounds outlined herein will be entitled to a remedy.

All parties involved in a complaint must be treated fairly. These procedures are based on principals of fairness and due process for complainants and alleged harassers. The Division is committed to providing a complaints process that is fair, unbiased and facilitative for all parties.

Responsibility of the Division

It is the responsibility of the Division to exercise its authority to prevent harassment and discrimination, to penalize the repetition of harassment and discrimination, and to respond promptly to known or apparent incidents of harassment and discrimination, whether or not a complaint has been filed.

Under Provincial law, the Division and its Board of Trustees, Superintendent & CEO, Senior Administration, Principals, Department Managers and others in a supervisory role have a legal responsibility to respond promptly to known or apparent incidents of harassment and discrimination, whether or not a complaint has been filed and to exercise authority to prevent and/or penalize the repetition of such behavior.

Where it is found that a Divisional employee in a supervisory role knew of an incident of harassment or discrimination and did not take any action to stop the behavior, that employee may be subject to penalties and remedies under this policy and under Provincial law.

Education

Prevention through education is a major goal of this harassment and discrimination prevention policy. Red River Valley School Division is committed to promoting widespread understanding and discussion of human rights issues across the Division for students, staff and administration. The Division will provide information about harassment and discrimination – including (but not limited to) prevention, dealing with behaviors when they occur and why these behaviours are so harmful to individuals and to the Division.

Confidentiality

Those who, by virtue of their position, are privy to information or in possession of documentation pertaining to a complaint shall hold such information in strict confidence. This shall include refraining from discussions or releasing information in any form, beyond that outlined in this policy, in the accompanying procedures, or as required by Provincial or Federal law.

The administration office reserves the right to disclose information to Division officials in cases that involve imminent danger and suspected child abuse and/or where required by law (i.e. where in receipt of a subpoena).

Direct Discrimination

Direct discrimination describes an act, behaviour or practice of treating a person unequally on the basis of any of the mentioned grounds herein. Direct discrimination may be overt and admitted or covert and denied.

Systemic Discrimination

The second form of discrimination, referred to as constructive discrimination in the Manitoba Human Rights Code, is most commonly known as systemic discrimination because it is discrimination inherent in, or the result of, the organization's informal or formal policies, practices or procedures.

Systemic discrimination occurs where a requirement, qualification or factor which, on its face, is not discriminatory, but which results in the exclusion, restriction or preference of a group identified by the grounds of discrimination.

Systemic discrimination is not found where the person or entity (an office, department or the Division) responsible for the policy, practice or system is able to show that the requirement, qualification, or factor is reasonable and bona fide in the circumstances. Although individuals may be held responsible for discriminatory acts, in most systemic discrimination cases, the Division will likely be identified as the entity responsible. A requirement, qualification or factor will not be found to be reasonable and bona fide unless the person or entity responsible for the policy, practice or system can demonstrate that the needs of the group of which the complaint is a member cannot be accommodating the needs. Reasonable and bona fide and undue hardship are defined in the definitions and notes at the end of this policy.

Accommodation of persons with disabilities

The right to freedom from discrimination on the basis of a disability requires that Red River Valley School Division provide the necessary accommodation to enable an employee with a disability to fulfill essential job duties as long as the employee is capable of performing and fulfilling the essential job duties, with or without accommodation, and as long as the accommodation does not pose undue hardship on the Division, considering the cost and outside sources of funding (if any). Accommodation must be in a manner which most respects the person's dignity and which recognizes the privacy, confidentiality, comfort, autonomy, and self-esteem of persons with disabilities. The accommodation should maximize their integration and promote their full participation at Red River Valley School Division.

Harassment

Harassment is normally considered to be a course of unwanted remarks, behaviours, or communications in any form based on a prohibited ground of discrimination where the person responsible for the remarks, behaviours or communications knows or ought reasonably to know that these are unwelcome.

Examples of harassment include (but are not limited to): jokes, comments or email messages which demean and belittle an individual and are based on race, ethnic origin, religion, sex, gender, sexual orientation, disability.

Poisoned Environment

Where harassing or discriminatory behaviours are sufficiently severe and/or pervasive to cause significant and unreasonable interference to a person's work environment, they may be deemed as creating an intimidating, hostile and offensive work environment. A poisoned environment can interfere with and/or undermine work performance and can cause emotional and psychological stress not experienced by other employees. As such, it results in unequal terms and conditions of employment and prevents or impairs full and equal enjoyment of employment benefits or opportunities. Although a person may not be the target of the behaviours, that person may feel the effects of certain harassing or discriminating behaviours at their place of work.

Sexual Harassment

Any repeated or unwelcome sexual comment, look suggestion or physical contact that creates any uncomfortable working environment for the recipient and that is made by a person who knows, or ought reasonably to know; that such attention is unwelcome constitutes sexual harassment.

The Manitoba Human Rights Code prohibits sexual harassment and specifically includes four types of behaviours:

- A course of abusive remarks or behaviours directed at other employees, based on sex or gender;
- A series of objectionable sexual advances or solicitations;
- A sexual advance or solicitation made by a person who is in position of authority, and can confer or deny any benefit if the person making the advance knows or ought reasonably to know that it is unwelcome;
- A reprisal or threat or reprisal for rejecting a sexual advance or solicitation; and reprisal for filing a sexual harassment complaint; and/or

Freedom from Reprisal

Every employee of the Red River Valley School Division has a right to claim and enforce his/her rights under this policy, to provide evidence and to participate in proceedings under this policy, and the right to refuse to act in violation of this policy without reprisal or threat of reprisal.

Remedies and Penalties

The objective of remedies and penalties in terms of cases of harassment and discrimination is to prevent the continuation or repetition of the conduct. It also aims to restore the complainant to the position she/he would have been in had the harassment or discrimination not occurred. Any remedies and/or settlements for harassment and discrimination complaints will take into consideration and address the “public interest” – that is, the interest of the Red River Valley School Division.

This policy applies to all employees and volunteers of the Division. It applies to the workplace and any activities connected with the workplace, such as work sites, washrooms, cafeterias, training sessions, business travel, conferences, and work related social gatherings, and activities taking place in employees’ homes, on school buses or at other sites where employees are carrying out the work of the Division.

Filing a Complaint

It is best if an employee who believes they have been harassed or discriminated against can deal with it quickly. They may file a complaint by describing the harassment or discrimination verbally or in writing to a person in authority (the Administrator or Department Manager). It is not necessary to put a complaint in writing. A worker has the right to file a complaint with the Manitoba Human Rights Commission.

The Administrator or Department Manager’s Response to Sexual Harassment

1. Administrators or Department Managers must provide a safe work environment for their employees. If the complaint is of a serious nature, involving threats of reprisal or risk of recurrence, or if the complainant is clearly fearful or intimidated, the Administrator or Department Manager must immediately contact the

Superintendent & CEO to discuss a course of action for accommodating the complainant while investigating the complaint.

2. The guiding principle is that the response be fair and reasonably appropriate to the harassment. For example, one offensive joke told by an employee would not result in an investigation, but the Administrator or Department Manager should speak to the employee. However, the Administrator or Department Manager would investigate where an employee is alleged to have made repeated unwelcome propositions. Administrators or Department Managers must consult the Superintendent & CEO on all allegations of sexual harassment before taking action.
3. Sexual harassment covers a broad continuum of behaviours. A range of responses and resolutions are available. The following table provides a guideline to assist Administrators or Department Managers in responding appropriately to the severity of the harassment.

Type of Conduct

Action by Administrator or Department Manager(s)

Administrator or Department Manager notices sexual jokes, sexual innuendo, and/or cartoons circulating in the school or workplace. Complaints may be made.

- Arrange an education session
- Remove any offensive materials and make it clear that they are unacceptable.
- Distribute policy statements or brochures on harassment to staff; post policies on bulletin board.

An employee makes a single comment or joke that another employee finds offensive.

- Caution the employee
- Educate the employee
- Explain / provide appropriate policy.

A request for a date from one employee to another is greeted as unwelcome; or leering/unwelcome gestures.

- Caution offending employee to cease and desist and that further incidents will result in disciplinary action.

A request for a date from a supervisor to a subordinate is greeted as unwelcome

- Caution offending supervisor to cease and desist and that further incidents will result in disciplinary action.

Type of Activity

Action by Administrator or Department Manager(s)

Two employees involved in a relationship bring personal details or behaviours into the workplace, causing others to be uncomfortable; or employees formerly involved bring personal animosity into the workplace causing each other or others to be uncomfortable.

- Caution employees that they are contributing to a poisoned work environment.
- Advise them to keep the personal relationship to themselves and away from the workplace.

Employees retaliate against a

- Caution employees that retaliation for a complaint

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| colleague because he or she made a sexual harassment complaint. | - constitutes harassment and will lead to discipline.
- Invite the Human Resources Department to assist. |
| Behaviours as outlined in numbers 1 through 6 above are repeated despite direction to stop. | - Consult with Superintendent & CEO
- Initiate progressive discipline up to and including dismissal. |
| A supervisor coerces or threatens another employee into a sexual relationship. | - Investigate the complaint.
- Consult the Superintendent & CEO
- Significant discipline up to dismissal if proven. |
| Sexual assault involving unwanted physical contact of a sexual nature. | - Investigate allegations.
- Consult Superintendent & CEO
- Significant discipline up to dismissal if proven.
- RCMP/Police are called. |

Administration or Department Management’s Communication with the Complainant

- Assure the complainant that the information will be kept as confidential as possible;
- Listen to the complainant and take the issue seriously;
- Ask the complainant how they want the complaint resolved. They must be informed that ultimately the Department Manager or Administrator (or Superintendent & CEO) determines the process and outcomes;
- Quickly assess the severity of the alleged harassment;
- Determine if the employee needs to be safeguarded and if working arrangements need to be modified;
- Discuss the process to be followed;
- Advise the complainant to keep the matter confidential during the investigation;
- Reassure the complainant that you will make the issue a priority;
- Assure them there will be no reprisal in any form from the harasser;
- Inform and support the complainant as the process unfolds; and
- Inform the complainant of the action being taken and the outcome.

Administrator or Department Manager’s Communication with the Alleged Harasser

- Inform the alleged harasser of the complaint;
- Direct the alleged harasser to have no contact with the complainant;
- Separate the employees by moving the alleged harasser if necessary;
- Advise the alleged harasser of their right to have a representative present;
- Provide alleged harassers an opportunity to explain their side and listening carefully;
- Place the alleged harasser on leave with or without pay pending an investigation if necessary;
- Direct the alleged harasser to keep the matter confidential; and
- Inform the alleged harasser of the outcome of the investigation.

Guide to Conducting an Investigation

In situations where allegations have been made and discipline seems likely, an investigation may be appropriate to determine the facts. The Administrator or Department Manager should conduct an investigation (with the

assistance of the Human Resources department) and present the facts, with a recommendation, to the Superintendent & CEO.

Investigating involves:

- Interviewing the complainant to determine what happened (get the facts);
- Meeting with the alleged harasser (and their representative if requested) to present the complaint and hear the response (record the interview, if possible, or take notes);
- Interviewing witnesses;
- Reviewing the facts to decide what response is appropriate;
- Ensuring fairness (conduct that is unbiased, just and honest, and treating employees consistently); and
- Providing conclusions to the Superintendent & CEO along with a recommended course of action.

Investigation may result in one of the following conclusions:

- If the evidence and the balance of probability standard of proof show that harassment occurred, an appropriate course of action is determined;
- If the evidence shows that harassment did not occur, actions may be recommended, such as circulating or posting policies, workplace mediation or arranging education;
- If the evidence shows the accusation was vexatious and malicious, discipline of the complainant may be recommended. (Note: these cases are extremely rare); or
- If the evidence was insufficient to draw a conclusion, actions may be recommended including education and debriefing.

Responsibilities of Human Resources

- Advise and consult with Administrators or Department Managers;
- Advise and counsel employees;
- Respond to questions regarding harassment;
- Assist with investigations as necessary; and
- Ensure consistency in applying this policy and these procedures.

Employee's Responsibility

- Respect the rights of others;
- Maintain a work environment free from harassment;
- Call it when they see it. Raise the matter with the harasser. If the harassment continues, report it to a person in authority; and
- If employee believes they are being harassed, tell harasser the behaviour is unwelcome, and must stop.