402.8.1 Harassment and Discrimination

1. DEFINITIONS:
   1.1. Discrimination

   Discrimination is the denial of individual rights and freedoms in a manner that contravenes the Canadian Charter of Rights and Freedoms, the Alberta Human Rights, Citizenship and Multiculturalism Act, or this policy. The Human Rights, Citizenship and Multiculturalism Act prohibits discrimination on the basis of race, religious beliefs, colour, gender, sexual orientation, gender identity, physical characteristics, disability, marital status, family status, age, ancestry, place of origin, place of residence, socioeconomic background or linguistic background. Discrimination is any improper action taken against, or failure to take appropriate action on behalf of any student, staff member or volunteer in contravention of the Human Rights, Citizenship and Multiculturalism Act and the Charter of Rights and Freedoms under this policy.

   1.2. Harassment

   Harassment is any behavior that in effect or intent disparages, humiliates, or harms another person or class of person. It is behavior that denies dignity and respect, and is demeaning and/or humiliating to another person or class of persons. Harassment may include, but is not limited to, references related to age, national or ethnic origin, religion, gender, sexual orientation, disability, race and/or sources of income or family status. The behavior may not be intended as harassing to be considered as personal harassment. It is sufficient that one knows or ought reasonably to know that his/her behavior is offensive and unwelcome. Harassment is not a relationship of mutual consent. It is any action or repeated behaviour or verbal action that is unwelcome or intimidating and denies individual dignity and respect. Harassment may include but is not limited to:

   1.2.1. Sexual Harassment

   Sexual harassment is any unwelcome behaviour that is sexual in nature. Such behavior may directly or indirectly affect or threaten to affect in an adverse manner a person's job security, prospects, promotion, earnings, work conditions, or learning and work environment. The behaviour need not be intended to be sexually harassing to be considered as sexual harassment. It is sufficient that one knows or ought reasonably to know that his/her behavior is offensive and unwelcome.

   Sexual harassment can include but is not limited to:

   - unwanted physical contact;
   - unwelcome remarks or compromising invitations;
   - verbal abuse
   - displays of suggestive pictures;
   - leering, whistling, innuendo, jokes or other behaviors or gestures of a sexual nature;
   - demands for sexual favours;
   - stalking;
   - insulting remarks about sexual orientation;
   - threats or intimidating behaviour;
1.2.2 Personal Harassment

Personal harassment can include but is not limited to:

- unwelcome remarks, jokes, innuendoes, references or taunting about a person's racial or ethnic background, colour, place of birth, citizenship, religion, age, disability or impairment, gender, sexual orientation, family status or ancestry;
- the displaying of racist, derogatory, or offensive pictures or materials;
- refusing to converse or work with an employee or student because of his or her racial or ethnic background, colour, place of birth, citizenship, religion, age, disability or impairment, gender, sexual orientation, family status or ancestry;
- insulting gestures, behaviours, or practical jokes which intentionally or unintentionally harms or humiliates;
- persistent criticism of, or interference with, school programs, staff performance, or interaction with students that is unwarranted and/or unsubstantiated.

1.3 Complainant(s)

Is an individual or group of individuals who submits a complaint.

1.4 District Employee

Is an individual employed by Lethbridge School District No. 51 and includes members of the Alberta Teachers' Association, Local 41 and Canadian Union of Public Employees, Locals 290 and 2843, contract personnel employed on a temporary basis to provide a specific service, and individuals occupying non-union positions. Individuals who volunteer their services within Lethbridge School District No. 51 shall be considered district employees for the purposes of this policy. The Principal or designate must take steps when appropriate to inform volunteers of their inclusion in this policy.

1.5 Learning and Work Environment

The learning and work environment can and does extend beyond the immediate school or school jurisdiction office. These sites can also extend to the playground, school bus, school or work related social activities, school or work related travel and field trips or other settings where the individuals involved are engaged in work related or school related activity such as field placement or a co-operative educational work term. The work and learning environment may also include all forms of communications, as well as various electronic media such as telephone, fax, and email, networked computers and internet communications.
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1.6 Respondent
Is an individual against whom a harassment complaint is filed.

1.7 Person in Authority
1.7.1 In situations where the respondent is a district employee working in a school, the school principal shall deal with the complaint.
1.7.2 In situations where the respondent is a district employee not assigned to a specific school, their immediate supervisor shall deal with the complaint.
1.7.3 In situations where the respondent is the principal or supervisor, the complaint shall be dealt with by the next person in authority.

1.8 Retaliation
Is unacceptable behavior exhibited by staff or students toward anyone participating in the discrimination/harassment complaint resolution process. Retaliation includes verbal abuse (such as threats or slander) and actions which are coercive, intrusive, disruptive, abusive, hostile, or threatening.

1.9 Student
Is an individual who is registered as a student in Lethbridge School District No. 51.

1.10 Parent
Is a student’s legal guardian or person who is responsible for the care and education of the student.

1.11 Union or Association
Refers to both the Alberta Teachers’ Association, Local 41 and the Canadian Union of Public Employees, Locals 290 and 2843.

2. LODGING A COMPLAINT AS AN EMPLOYEE
2.1 The complainant may access advice and assistance specific to the complaint process or regarding strategies to address discrimination/harassment. District employees should contact Human Resources and/or their respective union or association representative.

2.2 Employees who believe they have been the subject of discrimination/harassment by a district employee, student, parent, volunteer, or member of the public should consider making their objection clearly known to the offender. Although it is preferable that objections to discrimination/harassment be voiced to the offender, it is not a prerequisite to filing a complaint.

2.3 Complaints regarding discrimination/harassment can be dealt with through an informal or formal process.

2.4 An informal complaint shall be a verbal complaint that is handled as the person in authority deems appropriate. Typically this is the first stage of the resolution.
2.4.1 It is recommended that the person in authority document informal complaints.

2.5 A formal complaint is one which shall consist of a written signed statement outlining the allegations, describing the specific incident or incidents, the dates (as specific as possible), and any witnesses. The complaint shall be filed within a reasonable time from the date the last incident occurred.

2.5.1 A formal complaint may be submitted at any time throughout the resolution process upon the request of the person in authority or at the discretion of the complainant.

2.5.2 The District reserves the right not to deal with any complaint which is based on events which occurred more than one year prior to the date of the complaint.

2.6 Confidentiality of all information regarding the complaint shall be maintained by all parties.

2.7 These procedures do not remove the right to file a complaint with the Alberta Human Rights Commission, union, or through civil or criminal court.

2.7.1 In the event a complaint is filed with an outside organization, the complainant should advise the designated person in authority.

3. PROCESSING A COMPLAINT AGAINST A STUDENT WHO HAS HARASSED/DISCRIMINATED AGAINST AN EMPLOYEE

3.1 Discrimination/harassment complaints against students shall be dealt with in accordance with District Policy 502.2 - Student Discipline.

4. PROCESSING A FORMAL COMPLAINT BY A DISTRICT EMPLOYEE WHO HAS BEEN HARASSED/DISCRIMINATED BY ANOTHER EMPLOYEE

4.1 The complainant will submit a written complaint to his/her supervisor, outlining the charges, describing the specific incident or incidents, the dates (as specific as possible) and the names of any witnesses. The complaint shall be filed within a reasonable time from the date the last incident occurred (see item 2.5.2 above). Where a complaint is being made against a supervisor, the complaint shall be made directly to Human Resources.

4.2 Upon receipt of a formal complaint, the person in authority shall:

4.2.1 advise Human Resources;

4.2.2 advise the respondent, in writing, of the nature and specifics of the allegations and that an investigation will be initiated;

4.2.3 conduct an investigation that may consist of personal interviews with the complainant, the respondent and others who have direct knowledge of the incidents or circumstances that led to the complaint;

4.2.4 communicate the results of the investigation to the respondent and the complainant;
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4.2.5 attempt complaint resolution:

4.2.5.1 through mediation or some other informal process; or

4.2.5.2 through implementing corrective measures within their area of control; or

4.2.5.3 in the situation where the offence is believed to be of a more serious nature and beyond the mediation stage of intervention or a pattern of such behaviour has been demonstrated by the respondent, refer the complaint to the Superintendent; or

4.2.5.4 in a situation where the complaint is deemed not resolved by the complainant within 30 working days, the complaint may be referred to the Superintendent.

4.2.6 throughout the process, maintain a record of formal discrimination/harassment complaint(s) including dates, times, locations, possible witnesses, description of incident(s), personal response and resulting outcome and forward the record to Human Resources.

4.2.6.1 If the allegations are not supported this record shall be sealed and retained for five years following the completion of all appeal processes.

4.2.6.2 If the investigation supports the allegations in the letter of complaint, copies of all supporting documentation shall be placed in the respondent's personnel file.

4.2.6.3 After a period of three years, the respondent may request that all such related material be removed from his/her personnel file. The decision as to the disposition of the material shall be at the discretion of the Superintendent.

4.3 Complaint Referred to the Superintendent

The Superintendent shall deal with formal complaint referrals in accordance with the following procedures:

4.3.1 An individual acceptable to both parties will be appointed by the Superintendent to conduct an investigation regarding the discrimination/harassment complaint. If three names in total have been proposed by the Superintendent and rejected, the Superintendent may appoint someone considered to be impartial and the parties shall be deemed to have accepted that person.

4.3.2 The investigator shall conduct a review as deemed appropriate but shall, at a minimum, provide the parties with the opportunity to provide submissions and appear in accordance with the following procedures:

4.3.2.1 The complainant and respondent will have an opportunity to provide written submissions to the investigator (within 10 working days of the complaint being lodged) and an opportunity to respond to the other party's written submission (within 10 working days of receipt of the other party's submission). The complainant and the respondent will have the right to receive copies of one another's statements;
4.3.2.2 The complainant and respondent will have an opportunity to appear before the investigator to provide oral submissions. The investigator will have the right to ask questions of the complainant and respondent. The complainant and respondent may each have someone present to provide advice and assistance (e.g. legal counsel, union/association representative, colleague);

4.3.2.3 The investigator shall forward a written report with the findings of the investigation to the Superintendent within 30 working days of the complaint being referred to the Superintendent;

4.3.2.4 The Superintendent, upon receipt of the investigator's report, shall provide a written summary to the complainant and the respondent.

4.3.3 Outcome of Complaint Referred to the Superintendent

The Superintendent shall have 60 working days to process any complaint referred to him/her, however every effort should be made to ensure an expeditious resolution.

4.3.3.1 Investigation Findings Support the Complaint

If the results of the investigation support the allegations, the Superintendent shall take appropriate action including, but not limited to, the following options: a written reprimand with a copy retained in the respondent's personnel file, transfer, demotion, suspension, and recommendation for termination of employment.

4.3.3.2 Investigation Findings Do Not Support the Complaint

If the results of the investigation do not support the allegations, the Superintendent shall issue a letter to the complainant and the respondent advising that the investigation results do not support the complaint. The respondent has the option of requesting that a copy of the letter be placed in his or her personnel file.

4.3.4 Malicious Allegations

4.3.4.1 If the Superintendent concludes that the allegations were made in an intentionally false, malicious or vindictive manner, appropriate disciplinary action shall be applied.

5. PROCESSING A FORMAL COMPLAINT AGAINST A PARENT/PUBLIC MEMBER WHO HAS HARASSED/DISCRIMINATED AGAINST AN EMPLOYEE

5.1 The complainant will submit a written complaint to the Superintendent, outlining the allegations, describing the specific incident or incidents, the dates (as specific as possible) and the names of any witnesses. The complaint shall be filed within a reasonable date the last incident occurred.

5.2 Upon receipt of a formal complaint, the Superintendent or designate shall deal with the complaint in accordance with the following procedures:

5.2.1 The respondent will be advised, in writing, of the nature and specifics of
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5.2.2 An investigator will be appointed who will conduct an investigation that will include providing an opportunity for input from both the complainant and the respondent.

5.2.3 The investigation will be summarized in a written report that is to be submitted to the Superintendent within 30 days of the written complaint being submitted.

5.3 Outcome of Complaint

The Superintendent shall have 60 working days to process any complaint referred to him/her, however every effort should be made to ensure an expeditious resolution.

5.3.1 Investigation Findings Support the Complaint

If the results of the investigation support the allegations, the Superintendent shall take appropriate action including, but not limited to the following options: a written warning, issue of trespassing notice, termination of volunteerism, referral to appropriate authorities such as law enforcement.

5.3.2 Investigation Findings Do Not Support the Complaint

If the results of the investigation do not support the allegations, the Superintendent shall issue a letter to the complainant and the respondent advising that the investigation results do not support the complaint.

5.4 Malicious Allegations

5.4.1 If the Superintendent concludes that the allegations by the employee were made in an intentionally false, malicious or vindictive manner, appropriate disciplinary action shall be applied.

6. APPEALS

Individuals who are not satisfied with action taken with respect to enforcement of this policy are entitled to pursue the matter in the manner set forth as follows:

EMPLOYEES

6.1 For those matters that are covered by the employee's collective agreement, the matter may be pursued in accordance with the grievance or appeal procedure outlined in the appropriate collective agreement.

6.2 In those instances where the matter is not covered by the employee's respective collective agreement and the Superintendent was not involved in the process, an appeal may be made in writing to the Superintendent within 10 working days after the day the decision is communicated to them.

6.2.1 The Superintendent will respond within 30 working days after the day the appeal was received.

6.3 In those instances where the matter is not covered by the employee's respective collective agreement and the Superintendent was involved in the process, an appeal may be made in writing to the Board of Trustees within 10 working days after the day
6.3.1 The Board of Trustees will respond within 30 working days after the day the appeal was received.

NON-EMPLOYEES

6.4 Non-employees are entitled to appeal employee decisions as per Policy 505.9

7. REDRESS

Either party has the right to seek civil or criminal redress through the courts or to file a complaint with their union, association or the Alberta Human Rights Commission.

8. RECORD RETENTION AND DISPOSITION

8.1 All correspondence and reports relative to alleged discrimination/harassment shall be maintained in a file held separately for the duration of the investigation.

8.1.1 The individual dealing with the complaint shall retain this file.

8.1.2 Documents pertaining to complaints referred to the Superintendent for investigation or appeal shall be forwarded to the Superintendent at the time of complaint referral.

8.2 The person in authority shall document actions required of the complainant or respondent, as part of the resolution process.

8.3 If the allegations are not supported, this file shall be sealed and retained for five years following the completion of all appeal processes.

8.4 If the investigation supports the allegations in the letter of complaint, copies of all supporting documentation shall be placed in the respondent's personnel file.

8.4.1 After a period of three years, an employee may request that all such related material be removed from the personnel file. This decision is at the discretion of the Superintendent.

9. RETALIATION

9.1 No member of Lethbridge School District No. 51 staff or student body shall take retaliatory action with the intent of dissuading or punishing an individual for participating in the complaint resolution process (including the complainant, witnesses, the respondent and the investigator). Individuals who retaliate may be subject to discipline.