Lambton Kent District School Board

PROCEDURE NO: A-AD-170-26

ADMINISTRATIVE PROCEDURES

SUBJECT:	**Human Rights-Related Harassment and Discrimination Reporting and Resolution**

PURPOSE

The Lambton Kent District School Board recognizes the inherent dignity and the equal and inalienable rights of all members of the school board community and is committed to creating a climate of understanding and mutual respect for the dignity and worth of each person. This procedure is developed in compliance with the Ontario Human Rights Code, the Education Act, the Occupational Health and Safety Act, the Accessibility for Ontarians with Disabilities Act (AODA), the Canadian Charter of Rights and Freedoms and guidelines from the Ministry of Education.

DEFINITIONS

Discrimination

"Discrimination" results when an individual or group is negatively affected by any practice or behaviour based on one of the grounds set out in the Ontario Human Rights Code ("the Code"). It includes:

- Not individually assessing the unique merits, capacities and circumstances of a person
- Making stereotypical assumptions based on a person's presumed traits
- Having the impact of excluding persons, denying benefits or imposing burdens
- Discrimination does not include differential treatment which is permitted under the Code for special programs, special interest organizations, and special programs
- Discrimination can be intentional or unintentional, and direct or indirect

Harassment

"Harassment" means a course of vexatious comments or conduct that is known or ought reasonably to be known to be unwelcome, based on a protected ground set out in the Code. Harassment typically involves a pattern of comment or conduct that occurs over time. However, a single incident of a serious nature may be sufficient to constitute harassment. Harassment includes comment or conduct targeted towards a particular individual, as well as comment or conduct directed toward a group of individuals that creates a poisoned working environment for members of that group. Expressions of harassment based on the protected grounds include but are not limited to:

- Actions or comments that are known or ought reasonably to be known to be unwelcome, inappropriate, intimidating and/or hostile
- Unwelcome remarks, jokes, innuendoes or taunting
- Displays of offensive pictures or other materials, including the sending of unwelcome emails
- Unwelcome and/or unnecessary physical advance, contact or sexual touching
- Reprisal or the threat of reprisal if sexual attention is rejected

Protected Grounds
The protected grounds set out in the Code are as follows:

Race, Ancestry, Place of origin, Colour, Ethnic origin, Citizenship, Creed, Sex (including pregnancy), Sexual orientation, Gender identity, Gender expression, Age, Record of offences, Marital status, Family status, and Disability. Being in receipt of public assistance is a protected ground for housing issues only.

Complainant
The "complainant" is the person making the allegation of discrimination and/or harassment based on a protected ground of the Code.

Respondent
The "respondent" is the person who is alleged to have engaged in the discrimination and/or harassment based on a protected ground of the Code.

Duty Holder
Any person or organization with the legal responsibility to respect, uphold and obey human rights laws under the Code.

DUTIES AND RESPONSIBILITIES

It is the duty of all LKDSB students, parents/guardians/volunteers and any third parties (such as contractors, visitors and anyone conducting business with the LKDSB or using Board facilities) to respect the Code and to prevent discrimination and harassment based on the protected grounds.

It is the responsibility of all LKDSB students, employees, parents/guardians/volunteers and any third parties (such as contractors, visitors and anyone conducting business within the LKDSB or using Board facilities) to identify and report any Code related discrimination and harassment to a manager, administrator, superintendent or supervisor in a timely manner.

All LKDSB employees are duty holders under the Code and, as such, have a legal responsibility at all times to respect, uphold and obey human rights laws under the Code, as stated in the LKDSB Human Rights Regulation ("the Regulation").

It is the responsibility of school administrators, supervisors, superintendents and managers to:

- Review this administrative procedure and follow the steps outlined below when information is received about any alleged incident of employee culpable behaviour
- Apply this administrative procedure

It is the responsibility of the Superintendent of Human Resources to ensure that all existing and new employees become familiar with this procedure.

The Associate Director shall recommend a budget for the education and training of staff about culpable behaviour and for the implementation of this administrative procedure.

GENERAL INFORMATION

Support During the Complaints Process
Prior to initiating any complaint, and/or throughout the complaint process, complainants and respondents have a right to assistance and support, including:

- Union/federation/association representative
- Employee or colleague

- Translator/interpreter (if necessary)

Either party to the complaint may be accompanied during any proceedings by another person of their choosing.

Support will be provided to witnesses on a case-by-case basis, as appropriate in the circumstances.

Choosing the Correct Complaint Procedure

If an LKDSB student, employee, parent/guardian or volunteer, or third party (referred to as "the complainant") feels that they have been subject to commentary or discriminatory speech that is inconsistent with the LKDSB Human Rights Regulation and have experienced discrimination or harassment based on the protected grounds of the Code, they are encouraged to follow the Harmful Language Protocol.

Complaints by Students Against Students

- Complaints from students against students shall follow Safe Schools Policies and Procedures.

Complaints against Parents, Volunteers or Third Parties

- Any complaints against parents, volunteers or third parties shall follow Safe Schools Policies and Procedures.
- Complaints by students, parents, volunteers or third parties against LKDSB employees shall follow Human Resources Staff Discipline Investigation Procedures.

Complaints need to be filed within 1 year of the last incident of discrimination or harassment.

COMPLAINTS AND RESOLUTION PROCESS

If an LKDSB employee (referred to as "the complainant") feels that they have been subject to behaviour or conduct by another LKDSB employee (referred to as "the respondent") inconsistent with the Human Rights Regulation and have experienced discrimination or harassment based on the protected grounds of the Code, they may initiate a formal complaint. If a manager has reasonable grounds to believe that an employee has been subject to conduct or behaviour inconsistent with the Regulation, and the employee does not file a formal complaint within a reasonable time, the manager shall initiate a formal complaint.

Initiation of Complaint

1. A complaint shall be made in writing, delivered to the Conflict Resolution Coordinator, and shall include the following information:
    a. The names and contact information of people involved, if they are known
    b. The nature of the complaint
    c. The protected ground(s) of the Code relied upon
    d. Details of the behaviour or conduct that form the basis of the complaint, including any documentation in their possession relevant to the complaint or any documents a witness or other person may have that are relevant to the complaint
    e. The date(s), frequency, and locations on which the behaviour or conduct occurred
    f. The names of any witnesses to the behaviour or conduct that forms the basis of the complaint;
    g. The signature of the complainant

    To ensure procedural fairness, a copy of the formal complaint will be provided to the respondent by the Conflict Resolution Coordinator or designate prior to the formal investigation interview. The respondents will be given a reasonable opportunity to reply.

2. Where a formal complaint is initiated by a manager, the manager shall provide to the Conflict Resolution Coordinator the information set out above based on their knowledge, information and belief and shall indicate the source of their knowledge, information and belief in the formal complaint.

3. The formal complaint shall be filed with the Conflict Resolution Coordinator. If the complaint relates to conduct or behaviour by the Chief Executive Officer, a superintendent or a trustee, the complaint shall be filed with the Conflict Resolution Coordinator, who shall immediately advise the Chair of the Board, in writing, of the existence of the complaint. If the complaint relates to conduct or behaviour by the Conflict Resolution Coordinator, the complaint shall be filed with the Manager of Human Resources.

INVESTIGATION AND RESOLUTION OF A COMPLAINT

1. The Conflict Resolution Coordinator shall investigate the complaint or determine the appropriate person to investigate the complaint, including appointing a third-party consultant to conduct the investigation if warranted. If the complaint relates to conduct or behaviour by the Conflict Resolution Coordinator, the Manager of Human Resources will conduct the investigation or appoint an external investigator. The investigation into the complaint will commence as soon as reasonably practicable. In the absence of extenuating circumstances, the investigation will be completed and the final report submitted within sixty (60) working days from receipt of the complaint.

2. Where an external investigator has been appointed and there are extenuating circumstances, those circumstances will be explained to the Conflict Resolution Coordinator (or, if the Manager of Human Resources appointed the investigator, the Manager of Human Resources), and an extension of the timeframe for completing the investigation and providing the final report will be requested. The complainant and the respondent will be notified of the request for an extension and reasonable efforts will be made to grant the extension.

3. The respondent may be temporarily reassigned or placed on leave of absence with pay while the investigation is being conducted. Additional measures, such as access to the Employee and Family Assistance Program, may be implemented to support a party to the investigation (i.e. complainant or respondent) and/or protect the party's health and safety while the investigation is being conducted where these measures appear to be warranted in the circumstances.

4. Bargaining unit employees will be notified by the Conflict Resolution Coordinator or their designate at the outset of the investigation that they have a right to be represented by a federation/union representative during the investigation procedure if they wish.

5. The investigator will interview the complainant and the respondent separately regarding the allegations in the complaint. If the complainant and/or the respondent believe there are persons who may have information relevant to the complaint, or documents or information which may be relevant to the complaint, it is their responsibility to advise the investigator when interviewed, so that the investigator can determine in a timely manner whether to interview the individuals or consider the documents or information in question. In addition, while the investigation is on-going, the parties involved including complainants, respondents, and any witnesses, will be instructed by the investigator not to discuss the complaint, incident or investigation with other employees or witnesses unless it is necessary to obtain advice regarding their rights.

6. The complainant, the respondent, and any other person involved in the investigation as a witness or otherwise has a duty to cooperate in and refrain from interfering with an investigation under this Administrative Procedure. Failure to cooperate in or interference with an investigation may result in corrective action. The corrective action to be taken, if any, will be determined by the Manager of Human Resources, or the designate.

7. The Conflict Resolution Coordinator may recommend to the complainant and the respondent that an attempt be made to mediate a resolution to the complaint as an alternative to a formal investigation. However, mediation may only proceed if both parties agree to participate and further agree that, if the mediation is not successful, the investigator may proceed to complete the investigation and release their final investigation report. If mediation proceeds and is successful, the Conflict Resolution Coordinator or mediator will prepare a report that sets out the agreement that was reached in mediation. The report will be given to the complainant, the respondent, the respondent's next level of management (i.e., the respondent's administrator, manager or supervisor, or in the case of a trustee, the Chair of the Board) and the Conflict Resolution Coordinator (or, if the Manager of Human Resources appointed the investigator, the Manager of Human Resources). If mediation does not proceed or is unsuccessful, the Conflict Resolution Coordinator or the external investigator will issue their final investigation report.

8. The final report will set out the findings in relation to each allegation in the complaint. In making their findings regarding the allegations in the complaint, the investigator will consider whether the evidence establishes, on the balance of probabilities, that the respondent engaged in conduct or behaviour inconsistent with the Human Rights Regulation. In each case, the Conflict Resolution Coordinator or external investigator will also consider whether the evidence establishes, on the balance of probabilities, that the complaint was made in bad faith or maliciously, that any witness provided evidence in bad faith or maliciously in the course of the investigation, or that any person failed to cooperate in or interfered with the investigation. If the Conflict Resolution Coordinator or external investigator finds that the evidence establishes, on the balance of probabilities, that the complainant or a witness acted in bad faith or maliciously or that any person failed to cooperate in or interfered with the investigation, the Conflict Resolution Coordinator or external investigator shall include that finding in their final report. A written summary of final investigation findings will be provided to the complainant, the respondent, the respondent's next level of management (i.e., the respondent's administrator, manager or supervisor, or in the case of a Trustee, the Chair of the Board), and the Conflict Resolution Coordinator (or, if the Manager of Human Resources appointed the investigator, the Manager of Human Resources) within 10 calendar days of the final completion of the investigation, including receipt of the report. The summary report will contain the results of the investigation and any steps the employer has taken or will take to prevent a similar incident from occurring. Where the final investigation report includes a finding that a witness provided evidence in bad faith or maliciously or any other person failed to cooperate in or interfere with the investigation, a summary of this finding will also be provided to the witness or person in question and his/her next level of management.

9. If the investigation finds that the respondent engaged in conduct or behaviour inconsistent with the Regulation, appropriate corrective action will be taken and, where warranted in the circumstances, additional sanctions or remedies may also be implemented. Corrective action will be determined on a case-by-case basis, will be commensurate with the severity of the misconduct, and will take into account any relevant aggravating or mitigating factors. The following options may be considered:
    a. Requiring the respondent to apologize for their behaviour or conduct
    b. Counselling

c. Training
d. A verbal reprimand
e. A written reprimand
f. A suspension without pay; or
g. Dismissal.

The decision concerning appropriate corrective action and other sanction or remedies will be made by the Manager of Human Resources. If the respondent is the Manager of Human Resources, the decision will be made by the Superintendent of Human Resources. If the respondent is the Superintendent of Human Resources, the decision will be made by the CEO/CedO. If the respondent is the CEO/CEdO then the decision will be made regarding appropriate corrective action by the Trustees of the Board under the direction of the provincial Ministry of Education.

SANCTIONS AND REPRISALS

1. No sanction will be imposed on the complainant, a witness or any other person involved in the investigation of a complaint under the complaint procedure for participating in the process set out in these Procedures, provided the complaint was made in good faith, the witness' evidence was provided in good faith, and the complainant, witness or other person cooperated in and did not interfere with the investigation. However, if the investigator finds that the complaint was made in bad faith or maliciously, evidence was provided in bad faith or maliciously, or that any person failed to cooperate in or interfere with the investigation, the complainant, witness or other person in question may be subject to corrective action. The disciplinary action to be taken, if any, will be determined by the Manager of Human Resources.

2. No reprisal will be undertaken by any person against the complainant for initiating a complaint under the complaint procedure or against a witness or any other person involved in a complaint under the complaint procedure. Corrective action imposed in response to a bad faith or malicious complaint or evidence, or failure to cooperate in or interfere with the investigation is not considered a reprisal for the purpose of the Regulation or this Administrative Procedure.

MAINTENANCE OF DOCUMENTATION

1. In cases where the investigator finds that the respondent engaged in conduct or behaviour inconsistent with the Regulation, a written record of the incident (e.g., the complaint, the investigator's final report, and a description of the disciplinary action taken, if any) will be maintained in the respondent's official Human Resource file.

2. Where the investigator finds that the complaint was made in bad faith or malicious, that evidence was provided in bad faith or maliciously, or that any person failed to cooperate in or interfered with the investigation, a written record of the finding (e.g., the investigator's final report in the case of a complainant or a summary of the investigator's finding in other cases, as well as a description of the disciplinary action taken, if any) will be maintained in the official Human Resource file of the complainant, witness or person in question, as the case may be.

3. Where the investigator does not make a finding that the complaint was made in bad faith or was malicious or that the complainant failed to cooperate in or interfered with the investigation and finds that the respondent has not engaged in any conduct or behaviour inconsistent with the Regulation, no

record of the incident will be maintained in the official Human Resource file of either the complainant or the respondent.

4. The Conflict Resolution Coordinator will keep a copy of every complaint filed, the final investigation report pertaining to the complaint, and any corrective action or other disposition, regardless of the outcome of the investigation. All information obtained during the formal complaint procedure will, to the extent possible, be kept in confidence to maintain the privacy of the persons involved in the complaint. However, in order to ensure a fair process, the information will be shared with those persons who need the information either in order to do their job or in order to respond to an allegation. In addition, the information may be subject to disclosure pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* or as otherwise required by law. Any person who accompanies a complainant or respondent at any stage of the investigation procedure will be required to agree to comply with this provision as a condition of participation in the investigation procedure.

Implementation Date:	September 21, 2026
Reference:	LKDSB Policy Human Rights LKDSB Regulation Human Rights Ontario Human Rights Code