

Kelsey School Division Box 4700 The Pas, MB R9A 1R4 Phone: 623-6421	Code: GBEAA
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SEXUAL HARASSMENT

A. Definition: Sexual harassment shall be defined as:

1. any repeated and unwelcome comment, look, suggestion, or physical contact that:
 - a) creates an uncomfortable working environment for recipient; and
 - b) is made by a person who knows, or ought to know, that it is unwelcome;
2. a single sexual advance especially made by a person in authority that includes or implies a threat; and/or
3. a reprisal made after a sexual advance is rejected.

This definition cannot be changed unless by mutual agreement between Kelsey School Division and the Kelsey Teachers' Association as per contractual agreement.

B. Rationale: It continues to be a strongly held view that it is far better to identify potential problems and prevent them than to try to remedy them or punish offenders after the fact.

It is therefore, important that the issue of sexual harassment be discussed openly and frankly so that all members of the school division are aware of it as a potential problem.

Some have expressed uneasiness that individuals would find themselves cited for sexual harassment when they did not realize their behaviour was unacceptable and did not have any intention to offend. Clearly, if our collective efforts to prevent problems are to succeed, there must be greater awareness of the kinds of behaviours that constitute sexual harassment.

However, the school division is unlikely to be able to define, in a comprehensive and exhaustive manner, all of the specific behaviours that might conceivably constitute sexual harassment and therefore, one must rely on common sense, on an educational effort, and on experience gained through the application of this policy to guide us.

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C. Confidentiality

The school Division encourages its staff members and students to report all instances of sexual harassment to the administration, the appropriate unit head or the investigative officer. Confidentiality is extremely important when dealing with the sensitive and personal nature of sexual harassment problems. The provision of confidentiality extends to the complainant, the alleged harasser, or any other individual who reports harassing behaviour. Confidentiality should be maintained at each stage of the procedure.

Should a complaint proceed to the stage of a formal complaint, requiring investigation, it will be necessary to keep a file on pertinent information. However, these files should be maintained separately from employee's personnel files and should be destroyed two years after the date of satisfactory resolution. If the accused is supported in the resolution, he/she may ask that the file be immediately expunged or retained for a two-year period. This shall be solely at his/her discretion.

D. Dealing With Complaint

The Kelsey School Division shall appoint an investigative officer to investigate any alleged harassment.

If the alleged harassment is a teacher - teacher, school level employee - employer, or in the case of a student - student alleged harassment, the principal shall act as the investigative officer.

If the alleged harassment is an administrator - teacher, administrator - school level employee, supervisor - employee, the school Board shall appoint an investigative officer other than the principal mutually acceptable to KTA and CUPE.

The investigative officer shall be expected to deal expeditiously and fairly with any known instances or allegations of sexual harassment. Since failure to act could be interpreted as condoning the prohibited behaviour, the investigative officer must act promptly, and they should be able to produce written documentation or to provide corroborative evidence of steps taken to deal with the situation. The complainants, supervisors, administration, and unit heads shall cooperate fully with the investigative officer.

Note: In this policy, administrator shall include Superintendent, principal, and assistant principal.

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E. Complaint Procedure

Step 1 If students and staff members or other employees believe that they have been subjected to sexual harassment, they should take direct action and make the unease and/or disapproval known to the respondent immediately. This should be done in a courteous, professional manner. The complainant should make clear that he/she wants this action to stop immediately.

Step 2 If the actions by the respondent do not cease as a result of Step 1, the complainant should lay a formal complaint to the Division's investigative officer. A written record of the date, time, and nature of the incident(s) and the names of any witnesses should be kept. If a written complaint is made, the investigative officer shall determine whether the incident(s) on which a complaint is based would fall within the definition of sexual harassment as set out in the policy on sexual harassment. If in the opinion of the investigative officer, the incident(s) would not constitute sexual harassment as set out in the policy, the complainant will be so advised and no further investigation shall take place.

If in the opinion of the investigative officer, the incident(s) constitute sexual harassment as set out in the policy, the following procedures shall apply:

1. the investigative officer shall advise the respondent of the complaint that has been received.
2. the investigative officer shall investigate the complaint and interview the complainant and the respondent. The complainant or respondent may be accompanied during the interview by a union representative (in the case of unionized staff) or by parents or guardian in the case of students.
3. the investigative officer shall decide on and initiate an appropriate course of action and communicate his/her resolution in writing to the complainant and the respondent. Where no mutually agreeable resolution has been reached, the complainant or the respondent shall immediately appeal the decision to the Superintendent.

Step 3 The Superintendent shall review all the information available from Step 2 and shall involve all personnel previously in Step 2. The Superintendent must offer a resolution; which shall be communicated to both the respondent and the complainant.

Step 4 In cases where the action taken by the Superintendent is considered to be inappropriate, the matter shall be referred immediately to the Board of Trustees for review.

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Step 5 Failing satisfactory resolution from the Board of Trustees, either the complainant or the respondent may apply for an arbitration board ruling.

F. Reprisals

No teacher shall be subject to reprisal or threat of reprisal as a result of filing a complaint under this clause. It is recognized, however, that false or malicious complaints may damage the reputation or be unjust to other teachers and therefore, disciplinary action may apply in cases where false or malicious complaints are lodged.

G. Appeals

Any decision of an investigative officer, Superintendent, or school Board may be appealed by the complainant or respondent through normal accepted procedures set out in the school Division, but the time launching the appeal shall not exceed 14 days after a decision has been rendered.

H. Discipline

1. The nature and type of discipline will depend on the severity of the incident. Disciplinary measures may range from reprimands and warnings for less serious offenses to suspensions without pay or discharge for more serious offenses. If an employer decides that a transfer may be necessary, it should be the harasser who is transferred, not the victim. However, before deciding upon the appropriate disciplinary action, factors such as the nature of the behaviour, the persistence of the behaviour, whether or not the harasser displays cooperation and willingness to change, may be taken into consideration.
2. In a case where a victim of sexual harassment has suffered a loss, such as a demotion or denial of a promotion, it is appropriate to restore such a person to their proper employment position. Depending on the circumstances, the employer may want to consider providing some outside psychological counselling or a leave of absence to the victim should it be necessary.
3. Other remedies may include a written or oral apology from the harasser.

