

409 HARASSMENT PREVENTION, REPORTING AND INVESTIGATION

Background

In accordance with the intent of related human rights legislation, it is a goal of the Canadian Rockies School Division to provide a supportive working environment, within which employees are treated with respect and dignity, free from harassment. The Division will make every reasonable effort to ensure that no employee is subjected to such behaviour in the context of the employment relationship, and it will take appropriate disciplinary action if such behaviour occurs. The Division requires employees, students, volunteers, parents and all others who visit Division facilities to conduct themselves in a manner which promotes and protects the best interests of students, staff, and colleagues.

The Division recognizes that, on occasion, members of its staff and volunteers in our schools may have to deal with parents, students, members of the public, or colleagues who exhibit anger, express their frustrations or demands in a manner that is demeaning to the well-being of a staff member(s). The Division expects its staff to respond to such challenges with professionalism.

In those rare cases where the professional behavior is not sufficient to defuse offensive behavior by others, the Division believes it has an obligation to support, assist and educate its staff and volunteers with respect to issues of harassment, abuse or defamation associated with carrying out their duties. The Division expects such situations be addressed, when possible, through informal resolution processes which may include mediation or conciliations. If the severity of the situation warrants, the Superintendent is authorized to use legal remedies through the Division's counsel.

With respect to Division employees and students we are committed to:

1. Educating our employees in the recognition of violence and harassment and the operation of this administrative procedure in this regard;
2. Investigating reported incidents of or violence or harassment in an objective and timely manner;
3. Taking necessary action in response to such reported incidents;
4. Informing complainants and supervisors regarding reporting requirements and supports; and
5. Providing appropriate support for complainants.

Guidelines

Definitions

Abuse

A violation of the rights, dignity, and worth of other individuals. This includes any act of physical assault and/or verbal expression that humiliates, degrades, elicits fear or takes unfair advantage of a staff member or school volunteer.

Defamation

Any expression that attacks or injures the reputation or honor of an individual or group by false and malicious statements.

Harassment

Means any comment, conduct or gesture of a discriminatory nature that is likely to cause offense or humiliation to an employee. The Alberta Human Rights Commission states, harassment occurs when one person subjects another to unwelcome verbal or physical conduct because of:

- Race, religious beliefs, color, gender, physical or mental disability, age, ancestry, or place or origin.
- Unwanted physical contact, tension, demands, jokes or insults are harassment when they negatively affect the working environment (and/or) the ability to obtain services.

Harassment for the purpose of this administrative procedure also encompasses any unwanted sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature which:

Implicitly or explicitly makes submission of such conduct a term and condition of an individual's work;

- Affects access to employment;
- Affects access to school services or events;
- Creates a hostile or offensive environment which interferes with an individual's work or learning environment;
- Intimidates, embarrasses, coerces or humiliates an individual in the workplace; or
- Arises out of a relationship which is not based on mutual consent.

If serious enough, a single act or expression can constitute harassment. Harassment may be either subtle or blunt.

It is the responsibility of every administrator to ensure that the workplace under their jurisdiction is free from harassment and that complaints of such behaviors are investigated promptly, seriously and in a strictly confidential manner.

Employees of the Division who are not satisfied with the action taken with respect to a complaint may appeal the decision to the Superintendent.

Nothing in the foregoing affects an employee's right to file a similar complaint with the Alberta Human Rights Commission if they feel that the decision is not acceptable.

Instruction and Training for Employees

The Division will provide training to employees, which will include a review and explanation of this administrative procedure and the processing of complaints, as well as a description of Division's expectations of employees relative to their behaviour in the workplace. This training will include the following:

1. Online training Modules including but not limited to : Violence in the Workplace and Sexual Harassment
2. How to recognize workplace violence or harassment;
3. Appropriate response to incidents of violence or harassment; and
4. The procedures for reporting, investigating and documenting incidents of workplace violence or harassment pursuant to this administrative procedure

Communications Protocols

1. The Board recognizes that staff will be faced with some individuals experiencing serious levels of frustration, concern or anger. In working with angry, concerned persons the Division expects staff members to:
 - a. Conduct themselves in a civil and cordial manner.
 - b. Call for support from a colleague or administrator if rude, confrontational behavior persists.
 - c. Adjourn meetings with angry persons if, in their judgment, there is no possibility, at the time, for civil discourse. If the angry person does not leave when requested, the staff/administrators should leave the room.
 - d. In the event of when professional staff and or non-professional staff are in conflict, please refer to Administrative Procedure 401-1 and Administrative Procedure 405.
2. When a staff or parent's behavior is overtly threatening or appears to be dangerous or disruptive there are a number of legal remedies that can be invoked.
 - a. Section 256 of the Education Act forbids anyone from disrupting the school. The principal can forbid a person to enter the school grounds or property and can require them to leave the school property.
 - b. If someone threatens to physically harm anyone at the school, notify the police immediately. Section 265(1) of the Criminal Code makes it illegal to threaten by act or gesture to harm another person.

- c. Principals can apply to the courts to have a disruptive individual bound by a peace bond.
- d. A person who knowingly spreads false information about school personnel can be sent a warning letter and in extreme cases, sued for defamation.

General Procedures – Informal Resolution

1. Inform the person(s) that the statements/actions (verbally or in writing) are unwelcome and must stop immediately.
2. Document any interactions that could potentially lead to difficulties. This should include the date, nature of concern, and follow-up.
3. The principal will advise the complainant of available resources if they have been subjected to, or become aware of, situations involving harassment. This may include referral to an employee assistance plan for counseling.
4. If the behavior continues, advise the administrator of potential problems. The principals will only use the necessary information to assist in solving the problem and help the staff in a timely manner.
5. When an individual believes they have been subject to abuse, harassment, defamation, the incident(s) is to be reported to their immediate supervisor who may inform the Superintendent of the incident.
6. Principals should help the individual develop guidelines for language to use to assist in situations that are becoming abusive.
7. If the complaint cannot be resolved informally, the parties may initiate a formal resolution of the complaint to the Superintendent in writing using Form 1 (AP 406) Harassment Complaint.
8. Complaints of sexual harassment will be treated in the strictest confidence and the names of the complainants and the circumstances surrounding complaints will not be disclosed to any person, except when the disclosure is necessary for the purpose of investigating the complaint or taking disciplinary measures in relation thereto.

General Procedures – Formal Resolution

1. This process may be pursued if the informal process has not resolved the situation or the Superintendent, once informed, believes the formal process is more appropriate.
2. If an investigation is determined to be necessary, the superintendent will advise all parties of this review and assign an investigator with training. The superintendent will advise the complainant of available resources if they have been subjected to, or become

aware of, situations involving harassment. This may include referral to an employee assistance plan for counseling.

3. The investigator will interview all parties and complete a written report within 30 days from the date that the formal complaint was received.
4. The Superintendent will make a decision and advise all parties of the outcomes of the investigation and subsequent actions.
5. Refer to Collective Agreements: ATA, CUPE 4306, CUPE 37

Confidentiality

1. All persons shall treat information pertaining to a complaint with discretion.
2. Reasonable efforts shall be made to respect the confidential nature of a complaint under this procedure.
3. Information collected and retained as part of an investigation may be subject to release as part of a legal process.
4. The following principles apply:
 - a. the complainant and the respondent have a right to their own personal information
 - b. the complainant and the respondent may see written statements or reports related to the complaint process
 - c. a complainant/respondent does not have the right to see personal information about each other or about a third party that is not directly related to the complaint
5. Where the Superintendent or designate (including the investigator) determines, in accordance with FOIP, that disclosure of personal information will constitute an unreasonable invasion of a third person's personal privacy; or reasonably believes that disclosure of information will imperil the safety of an individual involved, such information shall not be disclosed.

If there is a determination on a balance of probabilities that a complaint has been filed in bad faith, is vexatious, or is clearly without merit, the Division may discontinue the complaint process and disciplinary action may occur against the complainant.

Reprisals against individuals who have reported a complaint of prohibited behavior are forbidden. Alleged reprisals shall be investigated as formal complaints and, if substantiated, are subject to disciplinary consequences.

In all cases, supervisory and managerial personnel have a duty to respond to and take action to resolve any alleged or suspected situations involving prohibited behavior. **The Resolving Issues of Harassment provides a framework for the formal complaint process.**

Review

In the event a complainant or respondent to a formal complaint has one or both of the concerns listed below, a request may be made within 10 days of the decision regarding the formal complaint of prohibited behavior, to the Superintendent to convene a review. A reviewer may be appointed by the Superintendent.

The grounds for such a review shall be that:

- The investigator did not comply with the procedures; or
- New evidence has become known after the final decision but before the expiry of the ten working days limitation period for requesting a review.

References

Section 33,52,53,197,204,222 Education Act
Alberta Human Rights Act
Child Youth and Family Enhancement Act
Employment Standards Code
Occupational Health and Safety Act
Criminal Code
Individual's Rights Protection Act
Alberta Human Rights
Canadian Charter of Rights and Freedoms
Alberta teachers' Association Code of Professional Conduct
Canadian Rockies Administrative Procedure 351

History

Developed: August 2003
Amended: April 2014
Amended: May 2020

Administrative Procedure 409 – Form 1 (AP 409) Harassment Complaint

Name of complainant: _____ School/Workplace: _____

Home Phone: _____ Work Phone: _____

Person(s) suspected of harassment
(respondent): _____

Nature of the allegations:

Date(s), time(s) and place(s) where the incident(s) took place:

Did anyone witness the incident? Yes No

If Yes:

a) Name(s) of witness(es):

b) Description of their respective role in the incident.

How did you react to the harassment?

If applicable, describe any incident that took place previously.

I hereby certify that to the best of my knowledge the above-mentioned information is true, accurate and complete. I understand that by signing this document I agree that a copy may be given to the respondent(s), the respondent's representative and the Superintendent.

Signature of Complainant

Date