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1. DEFINITIONS

For the purpose of this policy, the following definitions will apply:

- 1.1 The Human Rights Code prohibits harassment of employees or students on the basis of any characteristic referred to in subsection 9(2), whether the harassment is within the context of employment or within the context of services (where students are considered as customers/consumers of educational services).

The characteristics as referred to in subsection 9(2) of The Code include:

- (a) ancestry, including colour and perceived race;
- (b) nationality or natural origin;
- (c) ethnic background or origin;
- (d) religion or creed, or religious belief, religious association or religious activity;
- (e) age;
- (f) sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- (g) gender-determined characteristics or circumstances other than those included in clause;
- (h) sexual orientation;
- (i) marital or family status;
- (j) source of income;
- (k) political belief, political association or political activity;
- (l) physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair, or other remedial appliance or device.

- 1.2 Section 19(2) of The Human Rights Code defines "harassment" as:

- (a) a course of abusive and unwelcome conduct or comment undertaken or made on the basis of any characteristic referred to in subsection 9(2); or
- (b) a series of objectionable and unwelcome sexual solicitations or advances; or
- (c) a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought to reasonably know that it is unwelcome; or
- (d) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.

- 1.3 Section 19(1) of The Human Rights Code states: "No person who is responsible for an activity or undertaking to which this Code applies shall:

- (a) harass any person who is participating in the activity or undertaking; or
- (b) knowingly permit, or fail to take reasonable steps to terminate, harassment of one person who is participating in the activity or undertaking by another person who is participating in the activity or undertaking."



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1.4 Types of Harassment

1.4.1 Sexual Harassment may include:

- (a) Unwanted, persistent or abusive sexual attention;
- (b) A sexual advance or solicitation made by a person in a position to Grant or deny a benefit which may affect the employment status of an employee or the academic status of a student where the individual knows or ought reasonably to know that this attention is unwanted;
- (c) Sexually oriented behaviour or remarks which create a negative psychological environment for work or study. Such behaviour or remarks include, but are not restricted to:
 - demeaning remarks based on gender
 - suggestive jokes about sex
 - inappropriate comments about clothing, physical characteristics or activities
 - inappropriate displays of sexual pictures or materials
 - derogatory terms, graffiti which degrades a person based on his/her sex or sexual orientation
 - leering, ogling, and suggestive or insulting sounds
 - unwanted questions or comments about one's private life
 - unwanted physical contact, such as brushing up against one's body, patting or pinching
 - sexual assault (an offence under the Criminal Code)
- (d) A reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

1.4.2 A Racial/Ethnic/Homophobic Incident is a verbal or non-verbal exchange, expression or graphic/visual display including but not limited to derogatory terms, language, images and graffiti which degrades a member or members of a racial/ethnic group or community, or an individual's sexual orientation.

1.4.3 A Hate Crime is an offence such as an assault, threat, or act of vandalism motivated by hatred of the victim's race, religion, sexual orientation, gender or ethnic background.

1.4.4 Hate Propaganda is any form of communication that is intended to promote hatred toward groups or individuals. Hate propaganda may be distributed by telephone contact, broadcasting, graffiti, written materials, posters, electronic technology or music.

1.5 COMPLAINANT refers to the person who believes that he/she is being sexually harassed and has filed a complaint with the principal/ supervisor or the Division.

1.6 RESPONDENT refers to the person against whom the complaint has been made.

2. GENERAL

2.1 The Winnipeg School Division recognizes the right of all persons in its facilities to function in an environment free from harassment.

2.2 The Division shall work with all employee groups in recognizing and dealing with harassment and shall assist students in recognizing and dealing with harassment.

2.3 It shall be a violation of this policy for any person in a Division facility to use harassment toward any other person. All formal or informal complaints shall be investigated in accordance with established procedures.

2.4 All behaviours shall be judged on the basis of their consistency with human rights and respect for human dignity.



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3. CONFIDENTIALITY

Situations involving harassment shall be treated in strict confidence by the Division. All information from investigations and interviews pertaining to a complaint shall be shared only with the persons directly involved unless otherwise required by law.

4. RESPONSIBILITIES

- 4.1 The Chief Superintendent or designee shall be responsible for the development of procedures to deal with reported cases of harassment.
- 4.2 The Chief Superintendent shall inform all members of the Senior Administration and school principals that harassment, is not acceptable under any circumstances and will not be tolerated.
- 4.3 Members of the Senior Administration shall inform members of their department that harassment is not acceptable under any circumstances and will not be tolerated.
- 4.4 All schools/Division facilities shall establish procedures for handling complaints or incidents of harassment involving students, parents or visitors to be submitted to the appropriate superintendent.
- 4.5 The appropriate Superintendent shall review each school's procedures for handling incidents of harassment among students, staff, parents, and visitors as well as the local school's approach to informing students, staff and the community of the Division's policy regarding incidents of harassment.
- 4.6 School principals shall inform staff, parents and students annually (where appropriate) that harassment is not acceptable under any circumstances and will not be tolerated.
- 4.7 Members of the staff shall intervene in those situations where harassment is observed or overheard.
- 4.8 The principal/manager of a School Division Facility may obtain consultative advice from the Director of Human Resources in order to resolve an incident of harassment.
- 4.9 If the complaint involves the principal or manager of a School Division facility, the complainant may lodge the complaint with the appropriate Superintendent or Department Director.
- 4.10 A formal complaint of harassment must be made in writing in accordance with the procedures specified hereinafter, detailing the specific allegation(s) and naming the respondent with reference to the complaint.
- 4.11 The Superintendent/Department Director/School Administrator shall determine whether disciplinary action is warranted against the complainant or the respondent. Any action shall be taken in accordance with the Policy GCP - Discipline & Discharge if the complaint involves an employee or Policy JG - Discipline if the complaint involves a student. If the complaint involves people other than students or staff, appropriate action will be determined by the Chief Superintendent/Superintendent/Department Director.

5. EMPLOYEES COVERED BY COLLECTIVE AGREEMENTS

Where provisions with respect to harassment exist within a Collective Agreement, they shall apply.



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6. CONSEQUENCES

- 6.1 The handling of complaints or incidents of harassment involving students shall be subject to the local school's procedures and be consistent with the Administrative Rules of this policy and Policy JG - Discipline. School officials will institute disciplinary measures which will reflect the seriousness of the offenses.
- 6.2 Complaints or incidents of harassment involving a staff member shall be treated as a disciplinary issue and shall be addressed in accordance with the Administrative Rules of this policy and Policy GCP - Discipline and Discharge.
- 6.3 Complaints or incidents of harassment involving or caused by parents or visitors in the school shall be handled in accordance with the Administrative Rules of this policy and the local school's procedures.
- 6.4 Where it is found that a violation of the policy has occurred, the disciplinary action taken against a staff member or student specified in 6.1, 6.2 or 6.3 may include, but not be restricted to the following:
- (a) verbal warning
 - (b) written warning included in the staff or student's file
 - (c) suspension
 - of staff - with or without pay for specified period of time.
 - of students - for a specified period of time or exclusion from a school
 - (d) transfer to another location
 - (e) dismissal/expulsion
 - (f) police involvement
 - (g) involvement of Child and Family Services
 - (h) referral for psychological assessment
 - (i) exclusion from Division facilities

7. APPEAL

- 7.1 Within seven (7) calendar days of the complainant or respondent becoming aware of action being recommended by the Superintendent, the action may be appealed to the Chief Superintendent.
- 7.2 The Chief Superintendent shall review the details of the complaint and render a decision on the action or may substitute an alternative solution to the complaint.
- 7.3 The Chief Superintendent may or may not choose to hear the parties to the complaint before rendering a decision.
- 7.4 The complainant may elect to contact the Human Rights Commission or any other appropriate legal authority at any time before, during or after the Division's involvement in resolving the complaint.

8. VICTIMS OF HARASSMENT

- 8.1 Each school shall ensure that counselling is available to the victim and, when appropriate to the respondent of an incident of harassment.
- 8.2 The Division shall ensure that counselling is accessible and available to the victim and, when appropriate to the respondent of an incident of harassment in Division non-instructional facilities.
- 8.3 All information provided by the complainant shall be kept confidential unless otherwise required by law. If the complainant is a student or staff member, the information will not be placed in the complainant's file unless the complainant is found to be a frivolous or malicious complainant or unless required by law.



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Rules and regulations governing the handling of harassment cases as determined by the Chief Superintendent.

1. GENERAL

- 1.1 The Winnipeg School Division believes that all employees and all students have a right to work and study in an environment which is supportive to the dignity of individuals and which is free from harassment.
- 1.2 The Winnipeg School Division further believes that harassment of any employee or student in or affecting the work or study environment is an intolerable situation which will warrant disciplinary action.
- 1.3 Staff and students are encouraged to report all instances of harassment.

2. SEXUAL HARASSMENT PROCEDURES - STAFF

- 2.1 A staff member who believes that he/she is being sexually harassed may choose to deal directly with the individual who is believed to be the respondent, may discuss the matter with the principal/department head, or may file a formal complaint with the Division.
- 2.2 The principal/supervisor will investigate the complaint at the school/building level and if possible attempt to resolve the situation.
- 2.3 A complaint of sexual harassment shall be made as soon after the incident has occurred as is reasonably possible.
- 2.4 If the complainant does not wish to involve the principal/supervisor or is not satisfied with the resolution, a formal complaint of sexual harassment may be made in writing to the Director or Assistant Director of Human Resources detailing the specific allegation(s) and naming the respondent with references to the complaint. This does not preclude the complainant from accessing the Manitoba Human Rights Commission.
- 2.5 A complaint of sexual harassment which is not filed in a timely manner, and, based on the specifics of the complaint, may be dispensed with without investigation.

2.6 Investigation

- 2.6.1 The Director of Human Resources in conjunction with the appropriate Superintendent/Department Head, shall review the complaint and shall determine whether the allegations on which the complaint is based, can be considered sexual harassment as defined in Section 1 of the policy.
- 2.6.2 The investigative team shall ensure a gender balance from the members of the senior administration.
- 2.7 If the investigative team determines that the allegations do not constitute sexual harassment, the complainant shall be advised of the determination.
- 2.8 If the complainant is informed that the allegations do not constitute sexual harassment, the complainant may appeal this decision to the Chief Superintendent in accordance with the appeal clause detailed in Section 7 of Policy GCPDA and/or the Manitoba Human Rights Commission.
- 2.9 If the investigative team determines that the allegations constitute sexual harassment, the respondent shall be advised in writing that a complaint has been received.



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2.10 Mediation

- 2.10.1 At the request of either party and if the investigative team believes that mediation may be an appropriate method of resolving the situation, the Director of Human Resources may appoint a mediator. The mediator shall be selected from a list of approved mediators.
 - 2.10.2 Only if both parties agree the mediator shall meet without prejudice and attempt to come to a resolution of the complaint.
 - 2.10.3 The mediator shall report back to the Director of Human Resources whether the complaint has been resolved or not.
 - 2.10.4 The mediator shall determine what information regarding the attempt at mediation shall be communicated to the Director of Human Resources.
 - 2.10.5 Information disclosed during mediation shall not be used against either party unless required by law.
- 2.11 If a mediator is not appointed or if mediation is not successful, a member of the Human Resources Department and the appropriate Superintendent/Department Head or designee shall interview the complainant, the respondent and any other individual(s) who has been identified as being able to provide information with regards to the complaint.
- 2.12 Upon completion of the investigation, the investigative team shall attempt to determine in favour of the complainant or respondent and shall communicate their decision in writing to the Superintendent/Department Head.

3. SEXUAL HARASSMENT PROCEDURES - STUDENTS

- 3.1 A student who believes that he/she is being sexually harassed may file a complaint with the principal or counsellor of the school at which he/she attends.
- 3.2 Under normal circumstances the school administrators should deal with complaints in accordance with the school's behaviour management policy and procedures.
- 3.3 Each school may wish to designate two staff members, male and female, who have appropriate skills to respond to complaints of sexual harassment.
- 3.4 A formal complaint must be made in writing to the principal.

The written complaint should include a description of the incident(s) and the names of the persons involved.
- 3.5 An incident where a formal complaint has been made must be communicated to parents of children under the age of 18, and should be encouraged (with the consent of the complainant), when the student is 18 years of age or older. Communication with the parents may be by the student alone or with the support of the designated staff member, the Principal or the Superintendent of Schools.
- 3.6 An incident involving a child under the age of 16 which may be construed as child abuse shall be reported in accordance with Policy JHF - Reporting Children in Need of Protection and the Child and Family Services Act.



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- 3.7 A meeting shall be arranged with the complainant (and his/her parent/guardian if the student is under 18 years of age) and the principal within five school days of receipt of the complaint to review the complaint and to outline the procedures that will be followed to investigate and resolve the matter.
- 3.8 If the complaint from the student involves an employee of the Division, the principal shall advise the appropriate superintendent immediately.
- 3.9 If the complaint involves another student the following procedures will apply:
- 3.9.1 The principal or the designated staff members shall review the complaint and shall determine whether the allegations constitute sexual harassment as defined in Section 1 of the policy.
 - 3.9.2 If the principal or designated staff members determines that the allegations do not constitute sexual harassment, the complainant shall be advised of the determination and that he/she may appeal this decision to the appropriate Superintendent of Schools and/or to the Manitoba Human Rights Commission.
 - 3.9.3 If the principal determines that the allegations do constitute sexual harassment, the respondent shall be advised that a complaint has been received.
 - 3.9.4 At the request of either party and if the principal believes that mediation may be an appropriate method of resolving the situation, a mediator may be appointed.
 - 3.9.5 If a mediator is not appointed or if mediation is not successful, an investigation will be conducted which may consist of personal interviews with the alleged victim, the alleged perpetrator(s) and others who may have knowledge of the incidents or circumstances that led to the complaint.
 - 3.9.6 Upon completion of the investigation the principal shall attempt to determine in favour of the complainant or the respondent and shall communicate their decision to both parties.
 - 3.9.7 If the complaint is found to be valid, the principal shall determine what disciplinary action will be taken.

4. RACIAL/ETHNIC/HOMOPHOBIC INCIDENTS INVOLVING STAFF MEMBERS

- 4.1 Any staff member who becomes aware of another staff member's involvement in a racial/ethnic/homophobic incident, shall inform that staff member of the unacceptability of such behaviour and if the incident is not resolved to the satisfaction of the witness, the matter will be reported to the school principal or manager of the School Division Facility.
- 4.2 Any school principal or manager of a School Division Facility who becomes aware of a staff member's involvement in a racial/ethnic/homophobic incident, shall inform that staff member of the unacceptability of such behaviour.
- 4.3 The school principal or manager of a School Division Facility shall investigate all complaints regarding a racial/ethnic/homophobic incident. If substantiated, the matter will be treated as a disciplinary issue in accordance with the Policy GCP - Discipline and Discharge.
- 4.4 If the racial/ethnic/homophobic incident involves the school principal or manager of a School Division Facility, the incident will be referred to the appropriate Superintendent/Department Director.



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5. RACIAL/ETHNIC/HOMOPHOBIC INCIDENTS INVOLVING STUDENTS

- 5.1 Any staff member witnessing a racial/ethnic/homophobic incident between one or more students on school property, is directed to intervene. The only exception will be those incidents in which intervention may endanger the safety of the staff member or the safety of others.
- 5.2 Where a racial/ethnic/homophobic incident may be resolved at the classroom level, the teacher/responsible adult shall use the occasion to create a positive learning experience for all parties involved. No further action will be required if the racial/ethnic/homophobic incident is amicably resolved at the classroom level.
- 5.3 Racial/Ethnic/Homophobic incidents which are not resolved at the classroom level or racial/ethnic/homophobic incidents of a more serious nature shall be brought to the attention of the school principal and will be subject to Policy JG - Discipline, appropriate to the degree and intensity of the incident.
- 5.4 If the racial/ethnic/homophobic incident involves the school principal, the incident shall be referred to the appropriate Superintendent of Schools.
- 5.5 All complaints of racial/ethnic/homophobic incidents and their resolution shall be recorded. Where such complaints have been lodged, the person who has lodged the complaint and the parents of the complainant and respondent(s) under 18, shall be informed of the resolution. The record of the racial/ethnic/homophobic complaint shall not become part of a student's personal record.

6. RACIAL/ETHNIC/HOMOPHOBIC INCIDENTS INVOLVING PARENTS OR VISITORS

- 6.1 All school principals shall inform parents and visitors (where appropriate) that verbal exchange involving racially/ethnically/homophobic derogatory terms are not acceptable under any circumstances and will not be tolerated.
- 6.2 Any staff member witnessing a verbal exchange among parents and/or visitors shall inform that parent or visitor of the unacceptability of such behaviour.
- 6.3 Racial/Ethnic/Homophobic incidents involving parents or visitors which are not amicably resolved shall be reported to the school principal or manager of the School Division Facility.
- 6.4 If the racial/ethnic/homophobic incident involves the school principal or manager of the School Division Facility, the incident shall be referred to the appropriate Superintendent/Department Head.

7. INVESTIGATION/MEDIATION PROCESS

- 7.1 Those complaints which are not resolved by the principal/manager of the School Division Facility shall be referred to the appropriate Superintendent/Department Director.
- 7.2 The appropriate Superintendent/Department Director shall review the report and consider the following action:
- 7.2.1 Attempt to resolve the complaint.
 - 7.2.2 Request that a review team be established to review the complaint.



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- 7.3 The review team shall include the appropriate Superintendent or Department Director, the Director of Human Resources and a representative of the appropriate employee group if a staff member is involved in the complaint.
- 7.4 If the review team believes that mediation may be an appropriate method for resolving the complaint, a mediator shall be selected from a list of approved mediators.
- 7.4.1 The mediator shall meet without prejudice with both parties in an attempt to come to a resolution of the complaint.
- 7.4.2 The mediator shall report back to the review team as to whether the complaint has been resolved.
- 7.4.3 The mediator shall determine what information regarding the attempt at mediation shall be communicated to the review team.
- 7.4.4 Information disclosed during the mediation shall not be used against either party *unless required by law*.
- 7.5 If a mediator is not appointed or if mediation is not successful, the review team shall investigate the complaint.
- 7.5.1 The complainant, respondent or other individual(s) who have been identified as being able to provide information with regard to the complaint, shall be interviewed.
- 7.5.2 Upon completion of the investigation, the review team shall provide recommendations to the Chief Superintendent regarding resolution of the complaint.

8. HATE CRIMES/PROPAGANDA PROCEDURES

- 8.1 Incidents such as assaults, threats, vandalism or communication motivated by or intended to promote hatred toward a group or individuals' race, religion, sexual orientation, gender or ethnic background may be grounds for prosecution under the Criminal Code of Canada, The Manitoba Human Rights Act or Civil Litigation.
- 8.2 In instances where it is believed that incidents may be hate crimes or hate propaganda the School Administrator/manager of facility will immediately report the incident to the Superintendent/Department Director and the City Police.
- 8.3 Employees who witness an incident or discover propaganda on or in a School Division facility are required to immediately report it to the School Administrator/facility manager and to fully cooperate in the investigation.
- 8.4 If at all possible any materials should not be touched, anyone who is required to handle the material prior to it being examined by the City Police should take precautions to ensure that evidence is not destroyed.
- 8.5 In the case of graffiti, arrangements should be made to photograph and document the graffiti.
- 8.6 Employees who are proven to be involved in hate crimes or the communication of hate propaganda shall be dealt with in accordance with the Division's Discipline and Discharge Policy GCP.
- 8.7 Students who are proven to be involved in hate crimes or the communication of hate propaganda shall be dealt with in accordance with the Student Discipline Policy JG.



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8.8 Parents or visitors who are proven to be involved in hate crimes or communication of hate propaganda shall be dealt with in accordance with the decision of the Chief Superintendent.

9. REPRESENTATION

At any step of the procedures, the complainant or respondent may choose to be accompanied by a friend or union representative in the case of unionized staff, a friend or other counsel in the case of non-unionized staff, or a friend, parent and/or teacher in the case of a student. The friend, representative, or other counsel must be advised as to the requirements of confidentiality and concerns regarding retaliation and must agree to comply with the policy.

10. The complainant may elect to contact the Human Rights Commission at any time before, during or after the Division's involvement in resolving the complaint.

11. INTERFERENCE

Any interference or attempt at coercion in the investigative process by or on behalf of the complainant or the respondent shall be considered grounds for immediate disciplinary action in response to the interference or coercion.

12. FALSE ALLEGATIONS

Any staff member, student or parent who has made false allegations against a staff member, student or parent shall be subject to disciplinary action.