



KENORA CATHOLIC DISTRICT SCHOOL BOARD

100 General Administration Procedures

AP 116: Human Rights

The Kenora Catholic District School Board is committed to hosting a work and educational environment in which everyone is treated with respect and no one is subject to discrimination. This commitment stems from the Board's own philosophy and its obligations under the Ontario Human Rights Code.

Please Note: Every person has the right to seek assistance from the Ontario Human Rights Commission, even when steps are being taken under this policy. Those who belong to a union may be eligible to seek assistance as well. Please be aware, however, that in both instances, time limits will apply.

This policy is designed to alert those working for or using the services of the Kenora Catholic District School Board that discriminatory treatment in the workplace or in the provision of educational services is against the law and will define the types of behavior that may be considered discriminatory and clarify that discrimination will not be tolerated in its schools and business locations.

- 1.1 All those involved with the Kenora Catholic District School Board including trustees, employees, students, parents, volunteers, contractors, permit-holders and visitors must share the responsibility for eliminating discrimination and must work together to prevent it.
- 1.2 All persons are responsible for ensuring that our behaviour is appropriate, respectful, and consistent with the provisions of the Ontario Human Rights Code.
- 1.3 Every student and staff member is expected to respond in a timely and cooperative manner to requests for information relating to a complaint of discrimination.
- 1.4 There is also an expectation that formal written complaints be filed within 6 months of the offending incident(s) unless a delay was justified because of extenuating circumstances, and would not result in substantial prejudice to anyone.

- 1.5 This procedure applies to all those working for the Kenora Catholic District School Board, including trustees, as well as students, parents, contractors, volunteers, permit-holders and visitors to Board locations.
- 1.6 An individual's behaviour will be subject to this procedure when that person uses educational or other services offered at the Board locations, or works for the Board.
- 1.7 In both cases, locations and situations where behaviour will be subject to this procedure include but are not limited to:
- Both board offices and schools.
 - Board-related social functions.
 - School buildings under the jurisdiction of the Kenora Catholic District School Board.
 - School-related social functions where that school is under the jurisdiction of the Board.
 - In the course of work-related assignments outside of the Kenora Catholic District School Board facilities at work-related conferences or training sessions.
 - During work-related travel, e.g. field trips.
 - By telephone or other means of electronic (e-mail, voicemail, Internet, Intranet or fax) or written communication.

2.0 Terminology and Basic Principles

- 2.1 For the purpose of this procedure, the following terms are equivalent:

- Unequal treatment
- Differential treatment
- Discriminatory treatment
- Unfair treatment

2.2 Basic Principles:

To be considered discrimination, the action or rule in question must affect a person in a negative way. To fit under this policy (which is based on the Ontario Human Rights Code), this negative effect must be related to his or her

- Race
- Ancestry
- Place of origin
- Colour
- Ethnic origin
- Citizenship
- Creed

- Sex (includes pregnancy, breastfeeding, and gender)
- Sexual orientation
- Age
- Marital status, same sex partnership status
- Family status
- Handicap (mental or physical)
- Record of offences (in employment only, not services)

The discriminator's intentions do not matter (perhaps he or she does not mean to discriminate); only the result or effect of the action (unfair impact on a person) counts.

3.0 Four Types of Discrimination (Based on grounds protected by the Code)

a. Direct discrimination

The discriminator follows a practice that directly results in a negative impact for some individuals, based on one or more of the grounds listed above.

Examples:

- i) Girls are not allowed to play on boys' sports teams because they have their own separate teams.
- ii) A teacher tells students not to speak their own first language during school activities because this is Canada and they should therefore use English.
- iii) Indirect or constructive discrimination (also called "adverse effect" discrimination).

The discriminator (individual or institution) imposes a rule or policy that indirectly results in a negative impact for some individuals, based on one or more of the grounds listed above.

Example:

Health and safety guidelines for gym classes specify that students may not wear any "loose" clothing, not any head wear. (This has a negative impact on Muslim girls who wear the hijab head covering and a long, loose garment).

Notes:

The rule/policy appears to be neutral, i.e. it is applied equally to all students. The discrimination arises out of the result or effect of the rule on some individuals because of their religion.

If those affected cannot be accommodated without causing undue hardship to the one imposing the rule, the rule may be considered bona fide and reasonable.

Example:

Candidates for administrative promotional opportunities must agree, if chosen as the successful candidate, to begin the new position within two weeks. (This has a negative impact on women on maternity leave who are thus forced to forfeit the remainder of their leave period).

b. Systemic discrimination

Existing structures, policies and/or practices in the school or workplace impose barriers, both subtle and unsubtle, to some individuals, based on one or more of the grounds listed above.

Examples:

- i) Someone with a disability is not hired because the school building is not sufficiently accessible to that person; the person is not told of other accessible locations that might be hiring. Supervisors are not encouraged to hire people with disabilities nor informed about the accommodation they might offer to someone with a disability seeking a position.
- ii) Under traditional recruitment practices, only men were hired for custodial positions, while women were hired for less pay as school attendants.

Note: The problems stem from various systems and habits that have been in place over time.

4.0 Harassment

The definition under this Policy for "harassment" means:

“One vexatious comment or incident, or a course of vexatious comment or conduct that is known or ought reasonably to have been known to be unwelcome”.

When such conduct or comment involves any of the following prohibited grounds of discrimination:

Race
Ancestry
Place of origin
Ethnic origin
Citizenship
Creed (religion)
Age (in employment - over 18 and under 65)
Record of offences - pardoned conviction, un-revoked under the Criminal Records Act (in employment only)
Sex (includes pregnancy, breastfeeding and gender)
Sexual orientation
Family status (parent and child relationship)
Marital status, same sex partnership status
Disability or perceived disability

Examples: Types of behaviour that may constitute harassment include, but are not limited to:

- Jokes that by their nature is embarrassing or offensive
- Insults related to someone’s race, colour, and citizenship, place of origin, ancestry, ethnic background or creed.
- Mimicking a person’s accent or pronunciation or words.
- Name-calling or comments that ridicule individuals because of race- related characteristics or religious dress or practice.
- Displaying cartoons or pictures that degrade members of a particular racial group or religion.
- Intimidation related to one’s race, religion, gender or sexual orientation.
- Stereotyping based on one of the grounds listed above.
- Distributing or posting religious material (including by e-mail).
- Leering (prolonged and intense staring).
- Sexually suggestive or obscene comments or gestures.
- Unwelcome sexual flirtations or propositions, including from someone in a position to grant or deny a benefit, or someone who was in a consensual relationship with the target person.
- Unwanted and persistent gifts and/or requests for dates.
- Unwanted touching, kissing, pinching, patting, or stroking.

- Bragging about sexual prowess
- Questions or discussions about sexual activities
- Rating (person’s attractiveness on a scale of 1 to 10)
- Reprisals or threat of reprisal (e.g. being fired or not promoted or receiving a bad grade) for rejecting a sexual solicitation or advance made by a person in a position to grant or deny a benefit
- Publicly disclosing that someone is gay or lesbian

4.1 Poisoned Environment

Harassment can have a negative effect on, or poison, the workplace or school environment.

Examples:

- i) Someone puts up sexually offensive signs, pictures or cartoons in the office or school.
- ii) The manager or teacher makes negative remarks about people of a particular race, ethnicity or religion.

The comments or actions can still poison the environment for someone even if they are not made directly to that person or another employee or student. They do so by making it unpleasant to work or study in that place. The poisoned environment becomes an unequal condition of employment or receipt of a service (education), and therefore violates the right to be free from discrimination.

Outside Harasser

The Kenora Catholic District School Board recognizes that student and employees may be harassed by someone with a casual or infrequent connection to the Board or by someone with a casual or infrequent connection to the Board or by someone over whom the Board may have no control. In such circumstances, the Kenora Catholic District School Board nevertheless recognizes its responsibility to support and help the person who has been harassed. The Board actively encourages anyone who has been targeted to report all incidents of harassment, regardless of who the alleged offender may be.

5.0 General Provisions

Possible Criminal Activity

Please note that the following may constitute criminal behaviour and should be reported to the police:

- Displaying hate-based graffiti or pornography.
- Transmitting or storing electronic telecommunications that incite hatred and violence or that constitute pornography.
- Displaying symbols or emblems (including clothing) that suggest racial supremacy and incite hatred and violence.
- Stalking (persistently pursuing a particular individual although the advances are clearly unwelcome).
- Sexual assault or threat of sexual assault.
- Gay-bashing (hateful attacks of any form, based on the target's real or perceived homosexual orientation).

6.0 Reprisal

For the purposes of this procedure, “reprisal” means a negative action or omission against an individual carried out in relation to that individual having:

Invoked this procedure (whether on behalf of oneself or another individual).

Participated or co-operated in any inquiry under this procedure or Associated with a person who has invoked this procedure or participated in its procedures.

7.0 Liabilities

Under section 45 of the Ontario Human Rights Code, a corporation (e.g. the Board) is liable (responsible) for the action of its officers, employees, or agents when they are acting in the course of their employment. However, this does not excuse personal respondents (individuals) from liability.

Central decision-makers at the Board who know of harassment or inappropriate comment or conduct may be liable if they did not address the issue.

Employees with supervisory authority may be viewed as part of a corporation's “directing mind”, if they function or are seen to function as a representative of the organization itself.

Persons who are not identified as supervisors per se, including members of the bargaining unit, may also be “directing minds” if they have supervisory authority or have significant responsibility for the guidance of employees.

8.0 Remedial and Disciplinary Action

Individuals, regardless of status, seniority or tenure, influence or position, found to have engaged in conduct constituting discrimination may be severely disciplined or restricted from access to service provided by the Kenora Catholic District School Board.

Persons working for the Board - severely disciplined up to and including dismissal

Trustees - serious remedial action including recommendations for removal from the position

Students - may be suspended or expelled

Others (visitors, volunteers, permit-holders, contractors, etc.) - access to Board premises may be limited or completely barred; a permit may be revoked or not renewed, or a contract may not be renewed.

Kenora Catholic District School Board Administrative Procedure Manual
84 AP 121

9.0 Confidentiality

The Kenora Catholic District School Board understands that it is difficult to come forward with a complaint of discrimination and recognizes a complainant's interest in keeping the matter confidential.

To protect the interest of the complainant, the person complained against, and any others who may report incidents of harassment, confidentiality will be maintained throughout the investigation process to the extent practicable and appropriate under the circumstances.

All records of complaints - including notes from meetings, interviews, results of inquiries, and other relevant material - will be kept confidential by the Kenora Catholic District School Board, except where disclosure is required by a disciplinary or other remedial process or required by law or as a consequence of litigation, potential or actual.

10.0 Human Resources Administrator or Designate

The Human Resources Administrator or Designate helps and advises all staff in matters related to human rights.

In the event a complaint is filed, the Human Resources Administrator or the designate is available to:

- Provide information and confidential services to all parties in the complaint process and those responsible for the investigation
- Advise employees of all available options for resolution, up to and including filing a complaint with the Ontario Human Rights Commission and/or the union, and
- Investigate formal complaints

The Human Resources Administrator or designate shall have access to notes and records kept by any member of the administration relating to a specific complaint.

Legal References:

Ontario Human Rights Code PPM 144, PPM 145

Effective Date: April 23, 2010

Latest Review Date: April 23, 2010, November 2011