



POLICY: **POLICY TO PREVENT AND ADDRESS HARASSMENT** **CODE : HR-16**

Origin: Human Resources Department

Authority:

References: **Refer to the Legal Framework on page 2**

NOTE: The masculine gender, when used in this document, refers to both women and men. No discrimination is intended.

RATIONALE

The Board recognizes that harassment is an offence against human rights and intends to maintain and promote a working and learning environment respectful of the dignity and psychological and physical integrity of any person to whom this policy applies.

POLICY STATEMENT

By putting into force a policy to prevent and address harassment, the Board intends to:

- a) discourage and prevent harassment;
- b) impose appropriate corrective measures when a complaint for harassment is deemed founded, and this regardless of the status or seniority of the respondent;
- c) guide and support the person or group of persons who were a victim of harassment;
- d) apply the principles of procedural fairness and confidentiality;
- e) respect the decision of a victim to pursue a complaint;
- f) protect the victim against reprisals;
- g) ensure that the application of this policy does not prevent the victim from exercising other recourses.

FIELD OF APPLICATION

1. This policy applies to every person working for the Board. It also applies to any elected representative, volunteer and person responsible for supervising or monitoring the activities of the Board.
2. This policy applies during any teaching time, research activity, work hours, guidance or activity organized by the Board or its departments, representatives, schools or centres, on Board premises or elsewhere.
3. Situations that involve students, parents and all other members of the EMSB Community would be dealt with in accordance with the Safe Physical and Cyber Environment Policy.

LEGAL FRAMEWORK

All Canadian and Quebec laws, EMSB governance policies and bylaws and collective agreements will be applied, more particularly but not limited to:

- Act Respecting Labour Standards (R.S.Q. N-1.1, sections 81.18 to 81.20, 123.6 to 123.16)
- Human Rights and Freedoms Charter, sections 1, 4, 10, 10.1, 16 and 46
- Civil Code of Québec, sections 3, 6, 7, 35, 36, 1457, 1458, 1463 and 2087
- Act Respecting Occupational Health and Safety, section 9, section 51, subsections 3 and 5
- Canadian Human Rights Act (R.S.Q. H-6) /section 14 (2).

- Safe Physical and Cyber Environment Policy.

POLICY OBJECTIVES

The main objectives of this policy are the following:

- a) to maintain a work environment free of harassment through the enforcement and implementation of preventative and corrective measures;
- b) to establish the respective responsibilities of every person involved in the application of this policy;
- c) to establish an assistance and/or complaint process for individuals who are a victim of harassment;
- d) as a deterrent measure, to make known the consequences that a person held responsible for harassment could suffer.

DEFINITION OF THE CAUSE OF ACTION FOR HARASSMENT

1. Harassment means any vexatious or contemptuous behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects a person or group of persons' dignity and/or psychological and/or physical integrity and that results in a harmful work environment for the person and/or group of persons. A single serious incident that has a lasting harmful effect on a person and/or group of persons may also constitute harassment.
2. The following are examples, but not an exhaustive list, of actions defined as harassment:
 - a) physical, verbal and written threats or aggressions;
 - b) unwelcome remarks, jokes, insinuations and/or mockeries based on a person's physical characteristics and/or appearance, sexual orientation, age, sex, civil status, ethnic and/or national origin, culture, religion, etc.;
 - c) displaying of sexist, racist and/or other offensive material, or graffiti with a sexist, racist, cultural, ethnic, or religious content;
 - d) jokes causing personal humiliation or embarrassment and placing individuals in danger or having a negative impact on their performance;
 - e) hazing and/or initiation rites;
 - f) suggestive looks and/or obscene or suggestive gestures;
 - g) unwelcome questions and/or comments on a person's sexual life;
 - h) unwelcome sexual advances;
 - i) behaviours, comments, gestures and/or contacts of a sexual nature susceptible of offending and/or humiliating a person;
 - j) intimidation;
 - k) condescendence, paternalism and/or protective attitude undermining personal self esteem and/or having a negative impact on a person's performance and/or working conditions;
 - l) attempts to discredit a person by making false allegations of incompetence, criminal offences, harassment, denunciation, etc, with the intent of causing prejudice to this person;
 - m) retaliation against a person who filed a complaint for harassment.
3. The exercise of one's authority, the normal allocation of work, performance evaluation and supervision of employees, disciplinary measures for valid reasons and the control of absences do not generally constitute harassment.

REPRISALS

The Board may take disciplinary measures and/or other measures against any employee and/or individual who takes reprisals against a person who filed a complaint or is involved in an inquiry for harassment. Reprisal includes but is not limited to any form of intimidation, threat, retaliation or harassment.

IMMUNITY AND CONFIDENTIALITY

1. Provided that the complainant acts in good faith, the filing of a complaint for harassment will not affect his employment or the tasks assigned to him.
2. However, complaints, accusations not made in good faith may result in disciplinary measures or actions against the complainant.
3. The names of all individuals involved or related to a written complaint shall not be divulged unless deemed necessary for the implementation of administrative and/or disciplinary measures pursuant to the complaint and/or if required by law.

APPLICATION OF THIS POLICY

1. The Director of Human Resources is responsible for the application of this Policy.
2. This Policy replaces any other policy on harassment previously adopted by the Board.
3. Notwithstanding the above, the complainant maintains ownership of his complaint and as such may ask to modify or terminate the process at any given time.
4. This Policy will be reviewed on an "as need" basis.



PROCEDURE: POLICY TO PREVENT AND ADDRESS HARASSMENT

CODE : HR-16.P

Origin: Human Resources Department

Authority:

NOTE: The masculine gender, when used in this document, refers to both women and men. No discrimination is intended.

PURPOSE

To provide a procedure to be followed in investigating, reporting and resolving situations involving complaints lodged in accordance with the Policy to Prevent and Address Harassment.

ROLE AND RESPONSIBILITIES OF THE INTERVENING PARTIES

1. School or Centre Administrator or Immediate Supervisor
 - Meet and listen to the complainant;
 - Provide information about the Policy to Prevent and Address Harassment;
 - Provide information about the availability of resources to help and support the parties involved;
 - Attempt to resolve the situation;
 - Provide assistance during the procedures;
 - Take the appropriate preventative or corrective measures to stop situations of harassment.

2. Director of Human Resources
 - Meet and listen to the complainant;
 - Provide information about the Policy to Prevent and Address Harassment;
 - Provide information about the availability of resources to help and support the parties involved ;
 - Attempt to resolve the situation to the satisfaction of all parties involved;
 - Provide assistance during the procedures;
 - Receive the complaint;
 - Convene the Board's Inquiry Committee;
 - Receive the Board's Inquiry Committee's findings and render a recommendation;
 - Provide support in the implementation of the corrective measures.

3. Board's Inquiry Committee
 - Investigate the complaint;
 - Meet with the complainant, the respondent and any other people necessary to complete the investigation;
 - Make a recommendation to the Director of Human Resources and/or the Director General.
4. Director General
 - Receive the recommendation of the Director of Human Resources for the purpose of implementing corrective measures as per the Delegation of Certain Functions and Powers to the Director General.

PRELIMINARY ACTION

Any person to whom the Policy to Prevent and Address Harassment applies who believes the actions of another person constitute harassment under the Policy is encouraged to inform that person that his behaviour is unwelcome, offending and against this policy and must stop immediately.

1. If the actions persist and, prior to lodging an official complaint, the person to whom the Policy applies who believes the actions of another person constitute harassment, must either meet with his school or centre administrator or immediate supervisor, or contact the Director of Human Resources or his designate directly.
2. During this meeting, the following information must be provided by the school or centre administrator, the immediate supervisor or the Director of Human Resources or his designate:
 - a) the possibility of solving the issue informally, but not necessarily;
 - b) the right to file an official complaint in writing;
 - c) the availability of resources, namely the Employee Assistance Program;
 - d) the right to be accompanied by a union or association representative of his choice during the entire process;
 - e) other options and recourses available.
3. Following this meeting, any person to whom the Policy applies, who believes he has been the victim of harassment, may file an official complaint.
4. Administrators who are aware of situations of harassment must take the necessary preventative or corrective measures to address those situations. Administrators may inform the Director of Human Resources or his designate to support him in the measures taken.

COMPLAINT PROCESS

1. An official complaint must be submitted on the Harassment Complaint Form provided by the School Board. A draft template is provided in Appendix A herein. The official complaint must be filed with the Director of Human Resources or his designate. Any person to whom the Policy to Prevent and Address Harassment applies may file a complaint following the meeting provided for in the section Preliminary Actions of said Policy without having previously advised his school or center administrator or immediate supervisor;
2. If asked, the school or centre administrator, the immediate supervisor or the Director of Human Resources or his designate will help the complainant complete the Harassment Complaint Form.

INQUIRY PROCESS

1. As soon as a complaint has been filed, the respondent must be convened, in writing, by the Director of Human Resources or his designate to a meeting to be informed that a complaint for harassment has been received. The notification must indicate that the respondent may be accompanied by his union or association representative of his choice, when applicable;
2. Upon receipt of a complaint, the Director of Human Resources or his designate shall also convene the Board's Inquiry Committee;
3. The Board's Inquiry Committee will be led by a minimum of two (2) and a maximum of three (3) people, including an Assistant-Director of the Human Resources Department;
4. The Board's Inquiry Committee may use any resources and mandate any person deemed necessary to assist him in carrying out the inquiry, conducting interviews and/or gathering the information required;
5. The inquiry should normally be completed within 30 working days of the filing of the complaint. This delay can be extended by informing the Director of Human resources, the complainant and the respondent;
6. The inquiry will normally consist of personal interviews with the complainant and the respondent. Other persons who are aware of the incident and/or the circumstances surrounding the complaint may also be interviewed. Every person interviewed must sign a Confidentiality Agreement Form as attached herein in Appendix B;
7. The inquiry will ascertain the following information:
 - a) the circumstances;
 - b) a description of the incident(s);
 - c) past incidents or repeated behaviours;
 - d) the relationship between the parties involved and the context where the alleged incidents took place;
 - e) any form of consent or obvious disapproval from the complainant when the incidents took place.

8. The Board's Inquiry Committee shall determine whether the action or incident constitutes harassment under the Policy to Prevent and Address Harassment and promptly provide the Director of Human Resources and the Director General with the findings of the inquiry and its recommendation in writing;
9. Upon receipt of the recommendation, the Director of Human Resources will ensure the follow-up with the proper authorities in order to provide the right support or take the appropriate administrative measures if there is a substantial risk of recurrence or aggravation;
10. If the allegations are deemed to be founded in whole or in part, the Director of Human resources shall respect the following procedure taking into account the findings of the Board's Inquiry Committee as far as possible:
 - a) When feasible, the Director of Human Resources will attempt to resolve the complaint in an informal manner, such as a meeting of the complainant and the respondent that leads to an apology or other resolution that is satisfactory to the complainant.
 - b) If an informal resolution is not feasible, fails or is impractical in the circumstances, the Director of Human Resources may take any measure or recourse provided for in the collective agreements, administrative by-laws and provincial and federal laws in effect. This includes but is not limited to a warning, a reprimand, suspension or dismissal if deemed appropriate. For a respondent who is not an employee of the Board, the Director of Human resources may take all other means available under the law.
11. The Director of Human Resources must inform in writing as soon as possible the complainant and the respondent of the conclusion, recommendation and follow-up, if applicable.

FOLLOW-UP

1. Should there be any corrective measures to implement, the Director of Human Resources will inform the complainant and respondent's immediate supervisor of the recommendation of the Board's Inquiry Committee and his conclusion.
2. The Director of Human Resources must pay special attention to the complainant and respondent, as well as to any other person involved, notably by informing them of the services available through the Employee Assistance Program;
3. The complainant and respondent's immediate supervisor must follow up on any measures taken by the Director of Human Resources pursuant to the findings of the Board's Inquiry Committee, in particular by holding individual meetings with the complainant and respondent to ascertain that the measures implemented are respected and enquire about the work climate and any negative behaviour that could require an intervention on his part;
4. The complainant and respondent's immediate supervisor may, at any time, request the assistance of the Human Resources Department for the implementation of the process provided for in subparagraph 3 of the present section;
5. Should the measures taken be insufficient or the negative behaviour continue, the Director of Human Resources, in collaboration with the immediate supervisor, will either modify and/or increase the measures and/or take any other measure deemed necessary in the circumstances.

APPENDIX A



HARASSMENT COMPLAINT FORM

1. Name of complainant: (please print)

Last Name

First Name

2. Employee Volunteer Elected Representative Other _____
Please Specify

3. Place of Work: _____
(for employee and/or volunteer)

4. Home Address

5. Coordinates

E-mail _____@_____

Telephone: Day _____

Evening _____

6. Preferred method of contact during business hours:

7. Person(s) suspected of harassment (respondent)

8. Nature of the allegations

My report and other documentation are attached herein

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

10. Did anyone witness the incident? yes no

If yes:

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

b) Description of their respective roles in the incident.

11. How did you react to the incident?

12. If applicable, describe any incident that took place previously.

I am filing this complaint because I honestly believe that _____ has been harassing me.

I hereby certify that, to the best of my knowledge, the above-mentioned information is true, accurate and complete. Making false or frivolous allegations is in violation of this policy and subject to disciplinary sanctions.

Furthermore, I realize that an inquiry will be initiated once this complaint has been filed.

Signature of the complainant

DATE

Note: For collective complaints, each person filing the complaint must complete a separate form.

APPENDIX B



CONFIDENTIALITY OF INFORMATION EMPLOYEE

This document conforms to Section 2088 of the Quebec Civil Code. The employer hereby requests that the employee identified below complies with these obligations due to the confidential nature of the activities conducted in the course of his duties as an employee of the English Montreal School Board.

I, the undersigned, _____
(Name in block letters)

agree to respect the confidentiality of any personal data, decision of the employer or privileged information heard, read or seen in the course of my work and notably, during a meeting held at the Board on DATE.

Signature of the Employee

Date

CONFIDENTIALITÉ DES INFORMATIONS D'EMPLOYÉE

Le présent document est conforme à l'article 2088 du Code civil du Québec. L'employeur demande à l'employé(e) soussigné(e) de s'y soumettre en raison du caractère confidentiel de certaines activités dans le cadre de ses fonctions au sein de la commission scolaire English Montréal.

Par la présente, je, soussigné(e), _____
(nom en lettres moulées)

m'engage à conserver pour moi-même et de manière confidentielle toute information portant sur des renseignements nominatifs, des décisions de l'employeur ou des renseignements privilégiés entendus, lus ou vus dans le cadre de mes fonctions et notamment eu égard à une rencontre à la commission scolaire le _____.

Signature de l'employé(e)

Date



**CONFIDENTIALITY OF INFORMATION
(NON EMPLOYEE)**

I, the undersigned, _____
(Name in block letters)

was met in the course of an inquiry meeting related to a situation of alleged harassment. I hereby agree to respect the confidentiality of any personal data, decision of the School Board or privileged information heard, read or seen during a meeting held at _____
on _____

Signature

Date

**ENTENTE DE CONFIDENTIALITÉ
(NON-EMPLOYÉ)**

Par la présente, je, soussigné(e), _____
(nom en lettres moulées)

a été rencontré(e) dans le cadre d'une rencontre visant à enquêter sur des allégations de harcèlement. Je m'engage par la présente à conserver pour moi-même et de manière confidentielle toute information portant sur des renseignements nominatifs, des décisions de la commission scolaire ou des renseignements privilégiés entendus, lus ou vus dans le cadre de cette rencontre à _____ le _____.

Signature

Date