

PERSONNEL & EMPLOYEE RELATIONS

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HUMAN RIGHTS AND WORKPLACE HARASSMENT PROCEDURES

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1. General

Lakehead District School Board (LDSB) is committed to providing a safe, equitable and respectful learning and working environment. It is a shared responsibility across LDSB to foster an environment that is free from harassment, discrimination, and workplace harassment, where every individual is treated with respect.

These procedures support the implementation of the 7030 Human Rights and Workplace Harassment Policy.

2. Definitions

These terms are defined for implementing the 7030 Human Rights and Workplace Harassment Policy and Procedures.

- 2.1 **Allegation** is an unproven claim or assertion that someone has done something wrong based on a reasonable belief that a violation of the policy has occurred.
- 2.2 **Complainant** refers to anyone who makes a complaint under the policy alleging that harassment, discrimination and/or workplace harassment has occurred.
- 2.3 **Disability**¹ is defined (Ontario Human Rights Code, the Code) as:
 - any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
 - a condition of mental impairment or a developmental disability;
 - a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
 - a mental disorder; or
 - an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

¹ <http://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability/2-what-disability>

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2.4 External legal counsel, within this policy, refers to a lawyer or law firm which has not had a previous relationship with LDSB, the director of education, or any member of the Board of Trustees. The role of external counsel is to be neutral and free from any known bias which would prevent them from acting impartially.

2.5 Gender identity² is each person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex. Gender identity is fundamentally different from a person's sexual orientation.

2.6 Gender expression³ is how a person publicly presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common ways of expressing gender.

2.7 Harassment (the Code) means engaging in a course of a vexatious comment or conduct that is known to be, or ought reasonably to be known to be unwelcome, based on age, disability, family status, marital status, creed, race, and ancestry, place of origin, colour, ethnic origin, sex, sexual orientation, gender identity, gender expression, citizenship, and record of offences. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning or unwelcome, based on a ground of discrimination identified by the policy. Harassment can occur based on any of the Ontario Human Rights Code grounds.

Examples of harassment may include:

- inappropriate or insulting remarks, gestures, jokes, innuendoes or taunting about a person based on a prohibited ground – for example: racial slurs, taunting about a person's mental health or sexualized insults;
- unwanted questions or comments about an employee's private life pertaining to a prohibited ground in the Code – for example, intrusive questions about a person's disability, sex life, religion, or racial background; and/or
- posting, displaying materials, or the electronic publication of articles or graffiti etc. that is offensive because of a prohibited ground – for example, posting pornography, circulating hate literature or offensive emails.

Hate group activities intimidate, threaten, or promote hatred toward Code identifiable groups, contravene the policy and will not be tolerated at LDSB. They may also violate the Criminal Code of Canada.

² <http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>

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2.8 Lakehead District School Board is LDSB. Lakehead District School Board is an employer, as defined by the Occupational Health and Safety Act (OHSA).

2.9 Marital status (the Code) means the status of being married, single, widowed, divorced, or separated and includes the status of living with a person in a conjugal relationship outside marriage.

2.10 Malicious or vexatious complaints are complaints that are brought forward without sufficient merit and are made to cause annoyance or distress.

2.11 Mediation is a confidential voluntary process that parties in a complaint may agree to participate in, where a trained mediator is in communication with parties to effect an agreed upon resolution that is satisfactory both to the parties and to LDSB.

2.12 Other Users refers to prospective employees, volunteers, visitors, parents, guardians, contractors, and all other individuals that work on or are invited on to LDSB premises. Other Users does not include LDSB's students or employees.

2.13 Poisoned Environment⁴ is a form of discrimination. It may be created when unwelcome conduct or comments are pervasive within the organization, which may result in a hostile environment for one or more people from a Code-protected group. This can happen when a person or group is exposed to ongoing harassment. However, a poisoned environment is based on the nature of the comments or conduct and the impact of these on an individual rather than just on the number of times the behaviour occurs. Sometimes a single remark or action can be so severe or substantial that it results in a poisoned environment.

2.14 Record of Offences (the Code) means a conviction for:

- an offence in respect of which a pardon has been granted under the Criminal Records Act (Canada) and has not been revoked; and/or
- an offence in respect of any provincial enactment.

2.15 Reprisal is any harassment, intimidation, threats, or negative action taken against a person (e.g., complainant, witness, investigator, or respondent) for making a report to LDSB about an incident or filing a complaint of alleged harassment, discrimination, or workplace harassment or for taking part in these complaint procedures, in good faith. Reprisal is prohibited under the policy.

2.16 Student is any person, regardless of age, who is enrolled in any program offered by LDSB.

⁴ <http://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability>

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2.17 Support person is a person whose role is to provide assistance to a complainant, respondent or witness who is engaged in these procedures. A support person can be a union representative, parent, guardian, caregiver, relative, friend, colleague, or peer.

2.18 Trans or transgender⁵ is an umbrella term referring to people with diverse gender identities and expressions that differ from stereotypical gender norms. It includes, but is not limited to, people who identify as transgender, trans woman (male-to-female), trans man (female-to-male), transsexual, cross-dresser, gender non-conforming, gender variant or gender queer.

2.19 Transphobia⁶ is the aversion to, fear or hatred of trans people and communities. Like other prejudices, it is based on stereotypes that are used to justify discrimination, harassment, and violence toward trans people.

2.20 Workplace Harassment (OHSA) is engaging in a course of vexatious comment or conduct against a worker in a workplace that is known, or ought reasonably to be known, to be unwelcome or is Workplace Sexual Harassment.

Examples of Workplace Harassment may include:

- making repeated remarks, jokes or innuendos that demean, ridicule, intimidate or offend;
- displaying or circulating offensive pictures or materials in print or electronic form;
- singling out an individual for humiliating or demeaning “teasing”;
- making repeated offensive or intimidating phone calls or emails;
- gossiping or spreading negative rumours; and/or
- Workplace Sexual Harassment.

⁵ <http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>

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2.21 Workplace Sexual Harassment (OHSA) means:

- engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known, or ought reasonably to be known, to be unwelcome; and/or
- making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows, or ought reasonably to know, that the solicitation or advance is unwelcome.

Examples of Sexual Harassment may include:

- unwanted remarks, jokes, innuendoes, or taunting about a person's gender, gender identity, gender expression, or sexual orientation;
- homophobic or transphobic comments;
- unwanted physical contact of a sexual nature such as touching, kissing, patting, hugging, or pinching;
- leering, whistling, or other sexually suggestive or insulting sounds;
- refusing to use an employee's chosen pronouns;
- posting or displaying (including electronic publication of) offensive materials of a sexual nature;
- unsolicited sexual advances or demands for dates or sexual favours;
- inappropriate jokes of a sexual nature; and/or
- sexual assault (also an offence under the Criminal Code of Canada).

2.22 What May Not Be Workplace Harassment:

Workplace Harassment does not include reasonable action taken by LDSB and its staff in supervisory roles relating to the management and direction of employees or the workplace, even if there are unpleasant consequences for the employee.

Examples may include:

- changes in work assignments or scheduling;
- performance evaluation;
- workplace inspections; and
- disciplinary action.

Workplace Harassment typically does not include differences of opinion or minor disagreements between employees.

3.0 Procedures - General

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3.1 It is a shared responsibility across LDSB to foster a learning and working environment where every individual is treated with respect. Lakehead District School Board supports the individual's efforts to resolve an incident or a complaint, at the earliest possible stage and at the lowest level through dialogue with peers, principals, or managers, where appropriate.

These procedures are designed to address a report of an incident or a complaint of harassment, discrimination including hate group activities, or a complaint of workplace harassment, that is brought to the attention of LDSB.

Employees with supervisory authority at LDSB (for example, principals) have a duty to respond or take action to resolve incidents or complaints of harassment, discrimination, or workplace harassment. Lakehead District School Board may act if employees with supervisory authority at LDSB become aware of harassment, discrimination, or workplace harassment. To provide a working and learning environment free from harassment, discrimination, or workplace harassment, LDSB may continue to act if a complainant determines they do not want to proceed with a complaint or decides to withdraw the complaint.

Lakehead District School Board will ensure that an investigation, appropriate in the circumstances in accordance with OHSA, will be conducted into incidents or complaints of workplace harassment.

3.2 Human Rights and Harassment Complaints may be reported through an online portal (<https://forms.office.com/r/wQhDnzW2DT>).

3.2.1 This portal is monitored by the Office of the Human Rights and Equity Advisor (OHREA), who will provide intake support and route complaints to the appropriate channels within the Board.

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3.2.2 Reports through the portal are not immediately considered to be formal written complaints, as detailed in Section 5 of this procedure.

Complaints submitted through the portal that have all required information may be classified into two streams:

3.2.2.1 Stream A: Questions, concerns, or general inquiries that do not require a resolution process under 7030 policy/procedure; or

3.2.2.2 Stream B: Complaints or concerns that require a resolution process under 7030 policy/procedure. Complaints in Stream B may be classified as formal written complaints (per Section 5 of this procedure).

3.2.3 Anonymous complaints or complaints without sufficient information submitted through this portal may not be investigated.

3.3 In the following cases, individuals will be directed as noted:

3.3.1 Incidents/complaints against a trustee or superintendent (supervisory officer) will be referred to the director of education. If the alleged harasser is a trustee, the director of education may seek legal advice about referring the matter to the Trustee Code of Conduct, Board of Trustees, or an external investigator, as deemed appropriate. If the alleged harasser is a superintendent, the director of education will bring in outside legal counsel and, if necessary, an external human resources expert to support in the investigation.

3.3.2 Incidents/complaints against the director of education will be referred to the chair of the Board of Trustees. The chair shall seek external legal counsel and an external human resources expert to support the investigation and management of the complaint. The chair shall bring the complaint to a Special Board, or the next Regular Board meeting based on the advice of legal counsel.

3.3.3 Incidents/complaints against the chair of the Board of Trustees will be referred to the director of education. The director of education must notify the Board of Trustees of the complaint. Trustees must work to resolve it under the guidelines outlined in the Trustee Code of Conduct.

3.3.4 Incidents/complaints of harassment or behaviour of a violent nature, including physical assault and sexual assault, must be formally reported according to LDSB's policies, such as 7040 Violence in the Workplace policy and related procedures. The individual(s) may refer the matter to the police. Lakehead District School Board may refer the matter to the police.

3.4 All human rights and workplace harassment complaints must be filed within one year of the last alleged incident.

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- 3.4.1 In the event the complaint is being filed after one year, the complainant must identify, in writing, the reason(s) for the delay in filing the complaint, for consideration by the appropriate superintendent or designate.
- 3.4.2 It is within the discretion of LDSB to determine whether a complaint can be filed beyond the one-year anniversary of the last alleged incident.
- 3.4.3 Prompt reporting is encouraged as it allows for more thorough and accurate investigations, where needed. Investigations, where needed, will be conducted within a reasonable timeframe, respecting both the need for a prompt resolution and the need for a thorough and complete investigation.

3.5 Reprisal or retaliation against an individual for making a report of harassment, discrimination, or workplace harassment in good faith or against an individual for participating in good faith, in these procedures, is prohibited. An allegation of reprisal can be reported to the superintendent, for appropriate action.

- 3.5.1 Allegations of reprisal against a trustee or superintendent should be reported to the director of education. The director will initialize a review of the complaint using the processes outlined in Section 3.3 of this procedure.
- 3.5.2 Allegations of reprisal against the director of education should be reported to the chair of the Board of Trustees. The Board of Trustees will initialize a review of the complaint using the processes outlined in Section 3.3 of this procedure.

3.6 Any person can also pursue their complaint externally including at the Ontario Human Rights Tribunal, contact the Ministry of Labour or law enforcement, at any time, as appropriate.

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4.0 Informal Complaint Process

4.1 There is nothing in this process that would prevent a complainant from bypassing the informal resolution stage and proceeding directly to request a formal investigation. The informal options, (excepting for complaints involving students), to resolve complaints are the following.

4.1.1 Option one: where appropriate, complainants can choose to resolve their complaint first by addressing the person(s) involved, stating clearly the behaviour or actions are objectionable and must be stopped. This is a voluntary step. If this encounter does not result in the end of the harassment, discrimination, or workplace harassment or if the complainant is uncomfortable with addressing the individual(s) involved, alternate methods of reporting are available. Complainants are encouraged to keep a record of dates, times, places and witnesses of the harassment, discrimination, or workplace harassment, as well as specific details.

If the complainant is not satisfied with the results of the above process or is uncomfortable addressing the individual(s) involved, the harassment, discrimination or workplace harassment can be reported to those with supervisory authority at LDSB (for example, the principal or vice principal of the school, supervisor, manager, or a union representative, if applicable). Once the harassment, discrimination or workplace harassment has been reported to an employee with supervisory authority at LDSB and a preliminary investigation (at a minimum talking to complainant and respondent) has taken place, if deemed appropriate, an informal resolution can be sought using Option Two or Option Three.

4.1.2 Option two: attempt an informal resolution with the involvement of the employee with supervisory authority at LDSB (e.g., complainant speaking with respondent or with respondent apologizing to the complainant).

4.1.3 Option three: LDSB may offer mediation or other forms of alternative dispute resolution to the complainant(s) and respondent(s) where appropriate.

4.1.3.1 If one or more parties identify as Indigenous, LDSB may be able to provide resolution or mediation services that are in line with the parties' Indigenous practices and beliefs on conflict resolution. Parties must agree to proceed with culturally aligned resolution. Lakehead District School Board will endeavour to provide these services if appropriate and feasible.

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4.2 As part of Option Two and Option Three the complainant will be informed:

- of the policy and these procedures;
- about the limits to the confidentiality of the process (see section 5.6.4);
- about counselling for eligible employees provided by LDSB;
- they can withdraw the complaint at any time;
- they can bring a support person (e.g., union representative) to assist them with the process and in accordance with collective agreement provisions. A support person must keep complaint related information confidential and may be required to sign a confidentiality agreement; and
- they can initiate a formal written complaint.

4.3 As part of Option Two and Option Three the respondent will be informed:

- of the policy and these procedures;
- about the limits to the confidentiality of the process (see section 5.6.4);
- about counselling for eligible employees provided by LDSB;
- they can bring a support person to assist them with the process and in accordance with collective agreement provisions. A support person must keep complaint related information confidential and may be required to sign a confidentiality agreement; and
- of the nature of the allegation, and who has filed the complaint.

4.4 If the complaint cannot be resolved informally, to the satisfaction of the complainant, the complainant can choose to file a formal written complaint.

4.5 Employees, in accordance with these procedures, may also file informal complaints if they witness harassing or discriminatory behaviour, if they are unable to speak to the individual(s) involved, or if speaking with the individual(s) involved was unsuccessful.

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5.0 Formal Complaint Process

5.1 Employees

It is preferred that employee complainants report the incident or complaint using the online complaint reporting form but should keep a written copy that describes the incident, the steps taken to resolve the matter, and the names of witnesses. The complaint will be forwarded to the appropriate supervisory authority at LDSB. If an employee opts to report the matter verbally initially, they can report it to their immediate supervisor or the human resources officer for their area. If the immediate supervisor is the respondent, the complaint will be provided to the person to whom the supervisor reports or the appropriate superintendent. If the respondent is a superintendent, trustee, or the director of education, the complainant should address their complaint to the designated person outlined in Section 3.3.

5.2 Students

Student complainants should provide a written copy of the harassment or discrimination complaint, describing the incident(s), witnesses and any steps already taken to resolve the matter to their principal or vice-principal directly. If assistance is required in reporting the complaint, the student should contact the principal or vice-principal directly, or through their parent/guardian/teacher. If the principal is the respondent, then the complaint letter should be sent directly to the appropriate superintendent. The principal or designate (as determined by the superintendent) will address the complaint according to the policy and procedures and other applicable LDSB policies or procedures. If the respondent is a superintendent, trustee, or the director of education, the complainant should address their complaint to the designated person outlined in Section 3.3.

5.3 Other Users

Other user complainants should send a written copy of the harassment or discrimination complaint, describing the incident(s), witnesses and steps already taken to resolve the matter, to the immediate supervisor of the area/school/Board office where the respondent is working. In cases where the respondent is the supervisor, the complaint should be provided to the appropriate superintendent. If the respondent is a superintendent, trustee, or the director of education, the complainant should address their complaint to the designated person outlined in Section 3.3.

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5.4 The Role of the Superintendent (Supervisory Officer)

- 5.4.1 The supervisory officer under this procedure is responsible for dealing with complaints (the “Responsible SO or RSO”). The RSO will respond to complaints by having a preliminary assessment of incidents/complaints of harassment/discrimination or workplace harassment conducted, in order to determine if, on the face of the complaint, the allegation(s) meet the definition of harassment/discrimination or workplace harassment and to determine appropriate next steps to deal with an incident/complaint, in a manner deemed appropriate in the circumstances. This may include consulting with the Office of the Human Rights & Equity Advisor (OHREA) or re-directing matters to another department of LDSB as deemed appropriate by the RSO. Actions taken or fact-finding conducted for the purposes of an assessment will be deemed an investigation appropriate in the circumstances for purposes of the OHSA, if the assessment determines that on the face of the complaint no further investigation of the matter is warranted.
- 5.4.2 If it is determined that on the face of the complaint it rises to the definition of harassment/discrimination or workplace harassment, the RSO will retain carriage of the complaint and assign it to an investigator or investigation team, as appropriate.
- 5.4.3 If, on the face of the complaint, the allegations do not meet the definition of harassment/discrimination or workplace harassment, the RSO may forward the complaint to another area of the Board to address (e.g., appropriate supervisory/managerial staff, human resources in cases involving alleged culpable behavior, workplace violence), or the RSO may recommend mediation or alternative dispute resolution, as deemed appropriate in the circumstances. In such cases, supervisory staff, in conjunction with the union/association/federation representative and the affected employee(s), should give consideration as to whether a third-party mediator (agreeable to all parties), is appropriate. In some cases, the RSO may determine that no further action is required.
- 5.4.4 Where it is determined by the RSO that the matter is more appropriately dealt with by another department of LDSB, the complainant will be notified prior to forwarding the complaint. In such cases, the alleged respondent is typically not notified by the RSO.
- 5.4.5 The RSO may also determine, in consultation with human resources, that the matter complained of has already been dealt with through another forum (i.e., grievance/arbitration, human resources, disciplinary process). In such cases, the complainant will be advised of this by the RSO prior to file closure.

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- 5.4.6 The RSO has discretion to limit the allegations in any complaint due to duplication of information or in order to streamline the complaint, without loss of any substantive information.
- 5.4.7 In the event of a complaint against a superintendent, the director of education will bring in external legal counsel and, if necessary, an external human resources expert to support in the investigation and fulfill the duties of the RSO.
- 5.4.8 In the event of a complaint against a trustee, the director of education will notify the Board of Trustees who will manage the complaint through the process outlined in the Trustee Code of Conduct.
- 5.4.9 In the event of a complaint against the director of education. The chair of the Board shall seek external legal counsel and an external human resources expert to support the investigation and management of the complaint and fulfil the duties of the RSO. The chair shall bring the complaint to a Special Board or the next Regular Board meeting based on the advice of legal counsel.

5.5 Investigators

To conduct an investigation most appropriate according to the policy, LDSB can assign an employee(s) with supervisory authority as an internal investigator(s) and/or may appoint an external investigator(s). Lakehead District School Board may assign an external third-party investigator(s), where necessary, for various reasons such as complexity or limited resources. The investigator(s) shall act in accordance with the policy and these procedures and with any small variations if deemed necessary by LDSB. If the respondent is a superintendent, trustee, or the director of education, an investigator will be appointed per the procedures outlined in Section 3.3.

5.6 Investigation Process

- 5.6.1 The investigation of an allegation of harassment, discrimination or workplace harassment must be consistent with current collective agreements in case of employees, applicable Board policy(s) in case of students, and the doctrine of "procedural fairness".
- 5.6.2 Normally, LDSB will aim to complete an investigation within 90 days of the complaint being assigned for investigation. Factors that may affect this timeline include the number of parties, the availability of parties to the complaint, the time of the year the complaint is received (e.g., during summer, school-based employees may not be available), and the complexity of the matter.
- 5.6.3 Any person reporting an incident or complaint of harassment, discrimination or workplace harassment or participating in a process to resolve the matter, are required to keep the complaint related information confidential.

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5.6.4 Lakehead District School Board keeps the files in accordance with the records retention schedule. Lakehead District School Board maintains confidentiality and will share information, to the extent necessary, to protect students and employees (e.g., to create a safety plan or for the separation of parties) for actions such as investigation, follow-up, corrective action or as otherwise required by law. Lakehead District School Board may be legally required to provide information to an outside authority. As well, LDSB may be legally required to speak to the respondent regarding the harassment, discrimination, or workplace harassment and, where appropriate, take further action. It is for these reasons that absolute confidentiality cannot be provided. Lakehead District School Board cannot be held responsible for the actions of the complainant(s), respondent(s) or others involved and in relation to any outside agency.

5.6.5 The investigator(s) will explore, with parties, any concerns of physical safety and will make them known to the appropriate superintendent and, when the matter involves an employee(s), inform the human resources manager.

In some circumstances, an interim separation of parties pending final disposition of the complaint may be needed. An interim separation pursuant to these procedures does not constitute "discipline" or a "transfer".

5.6.6 Regardless of the outcome of the complaint, no action will be taken against a complainant unless it can be shown that the complaint was made maliciously or in bad faith.

5.6.7 All parties (such as, complainants, respondents, and witnesses) shall be provided copies of the policy, these procedures and will also be advised about maintaining confidentiality and not engaging in reprisal or threats of reprisal.

5.6.8 Where a report or complaint is filed in good faith, the employee who filed the report shall not be subject to any reprisal by anyone in the employ of LDSB or not in the employ of the LDSB if said individual is a student, parent, guardian, community member or person who works on or is invited to LDSB premises.

5.6.9 Should an employee who filed a report or complaint in good faith be the subject of a reprisal, then an investigation into the alleged reprisal shall be initiated following its reporting to the superintendent, as needed.

5.6.10 Should the individual who is found to have reprised against an employee who filed a report in good faith, also be an employee of LDSB and the reprisal was proven as a result of an investigation, then said individual may be subject to disciplinary action in accordance with the appropriate collective agreement and LDSB policies governing such matters.

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5.6.11 Should the individual be found to have reprimanded against an employee who filed a report in good faith be someone other than an employee of LDSB, and the reprimand is proven as a result of an investigation, then said individual may be subject to some form of sanction issued in accordance with LDSB policies and procedures and school/office where the employee who was subject to the proven reprimand works.

5.7 Formal Employee Complaints

- 5.7.1 Participants involved in the formal investigation will normally include the complainant, the respondent, witnesses (if any), an investigator(s) and/or support person(s).
- 5.7.2 Once a formal written complaint alleging harassment, discrimination or workplace harassment is received, the superintendent(s) appoints an investigator(s) with an identified lead investigator, where needed.
- 5.7.3 The investigator(s) meets with the appropriate principal or manager to discuss the issue. Investigator(s) will keep detailed notes pertinent to the investigation and as outlined in "records of investigation" (8.4).
- 5.7.4 The investigator(s) normally will meet with the complainant first, to obtain the necessary information pertaining to their complaint.
- 5.7.5 The investigator(s) will inform the respondent about the complaint and seek the respondent's response to the allegations. A copy of the formal signed complaint will be submitted to the respondent, indicating the name of the complainant and respondent, the places, times, dates, and nature of the alleged incidents being investigated.
- 5.7.6 The investigator(s) conducts further fact-finding meeting(s) as needed including to interview potential witnesses.

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5.7.7 Once the investigator(s) has completed the fact-finding, the final report of the investigation and a final summary report will be prepared. The final summary report is provided to the complainant, respondent, and the appropriate superintendent(s) or RSO. This summary will respect confidentiality to the extent possible.

5.7.8 In cases where there is a breach of the policy, appropriate disciplinary or remedial sanctions will be implemented. A record of the remedial or disciplinary action will be placed in the appropriate employee's personnel file. The complainant and respondent will be informed, in writing, about results of the investigation and of any corrective action that has been or will be taken as a result of the investigation. In accordance with confidentiality and/or collective agreements, details of corrective action(s) against employees may not be disclosed.

5.7.9 Where a resolution cannot be reached, or if the complainant is not satisfied with the resolution, an outside agency may become involved. Lakehead District School Board will cooperate, as required, with external proceedings (i.e., police, Ontario Human Rights Tribunal) as required by law.

5.7.10 Should the complaint be proven to be malicious or in bad faith, the complainant may be subject to the disciplinary action.

5.7.11 Where an employee related complaint has been investigated, human resources will maintain the investigation records in accordance with section 8.0, Records.

5.7.12 Under Regulation 18(1) (b) of the Teaching Profession Act, a teacher must "on making an adverse report on another member, furnish that member with a written statement of the report at the earliest possible time and not later than three days after making the report."

5.8 Formal Student Complaints

5.8.1 Participants involved in the formal investigation procedure will include the complainant, the respondent, witnesses (if any), and the principal or designated investigator and/or support person.

5.8.2 Once a formal written complaint alleging harassment or discrimination from a student is received, the principal or designate(s) shall conduct an investigation. The principal or designate(s) will keep detailed notes pertinent to the investigation and as outlined in "records of investigation" (8.4).

5.8.3 The principal or superintendent will inform the parents/guardians of the involved parties if the student(s) are under the age of 18.

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- 5.8.4 The investigator(s) normally will meet with the complainant first, to obtain the necessary information pertaining to their complaint.
- 5.8.5 The investigator(s) will inform the respondent about the complaint and seek the respondent's response to the allegations. A copy of the formal signed complaint will be submitted to the respondent, indicating the name of the complainant and respondent, the places, times, dates, and nature of the alleged incidents being investigated.
- 5.8.6 The principal or designate(s) conducts further fact-finding meeting(s,) as needed, including to interview potential witnesses.
- 5.8.7 Once the principal or designate(s) has completed the fact-finding investigation, the final report of the investigation and a final summary report will be prepared. The final summary report is provided to the complainant (parent/guardian where appropriate), respondent and the appropriate superintendent(s) or RSO. This summary will respect confidentiality to the extent possible.
- 5.8.8 In cases where there is a finding that a breach of the policy has occurred, appropriate disciplinary/remedial sanctions will be implemented. A record of the remedial or disciplinary action will be kept. The complainant and respondent will be informed, in writing, about results of the investigation and of any corrective action that has been or will be taken as a result of the investigation. In accordance with confidentiality and/or collective agreements, details of corrective action(s) against employees may not be disclosed.
- 5.8.9 Where a resolution cannot be reached, or if the complainant and/or their parents/guardians are not satisfied with the resolution, an outside agency may become involved. Lakehead District School Board will cooperate, as required, with any external proceedings (for example, police, Ontario Human Rights Tribunal).
- 5.8.10 Should the complaint be determined to be malicious or in bad faith, the complainant may be subject to the disciplinary action.

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5.9 Formal Other User Complaints

- 5.9.1 Participants involved in the formal investigation procedure will include the complainant, the respondent, witnesses (if any), and an investigator and/or support person.
- 5.9.2 Once a formal written complaint alleging harassment or discrimination is received from another user, the appropriate superintendent will appoint an investigator(s).
- 5.9.3 The investigator(s) will meet with the manager to discuss the issue, as needed. The investigator(s) will keep detailed notes pertinent to the investigation and as outlined in "records of investigation" (8.4).
- 5.9.4 The investigator(s) conducts further fact-finding meeting(s), as needed, including to interview potential witnesses.
- 5.9.5 Once the investigator(s) has completed the fact-finding investigation, the final report of the investigation and a final summary report will be prepared. The final summary report is provided to the complainant, respondent, and the appropriate superintendent(s) or RSO. This summary will respect confidentiality to the extent possible.
- 5.9.6 The complainant and respondent will be informed, in writing, about results of the investigation and of any corrective action that has been or will be taken as a result of the investigation. In accordance with confidentiality and/or collective agreements, details of corrective action(s) against employees may not be disclosed.
- 5.9.7 Where a resolution cannot be reached, or if the complainant and/or their parents/guardians are not satisfied with the resolution, an outside agency may become involved. Lakehead District School Board will cooperate, as required, with external proceedings (for example, police, Ontario Human Rights Tribunal).
- 5.9.8 Should the complaint be determined to be malicious or in bad faith, the complainant may be subject to the disciplinary action.

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6.0 Possible Remedial or Disciplinary Action

The type of remedy or discipline should:

- be based on an investigation;
- take all relevant factors into consideration; and
- be in accordance with the principles of progressive discipline and just cause, where applicable.

6.1 Employee Respondents

Any remedial or disciplinary action must be taken in consultation with the human resource manager or the superintendent of business. Action taken against an employee respondent may include discipline, up to and including, termination.

Some examples are as follows:

- an oral or written reprimand and/or a letter in file;
- counselling or training with an educational component focused on the impact of discrimination;
- continuing the employee in their assignment with precautionary measures, where appropriate;
- suspending the employee without pay; and
- termination.

Depending on the severity of remedial or disciplinary action taken, LDSB may be obligated to report the matter to the employee's regulatory body.

6.2 For student respondents remedial or disciplinary action to address the misconduct could be as follows:

- an oral or written reprimand and/or a letter;
- counselling with an educational component focused on discrimination;
- informing parents, where applicable, according to LDSB policy;
- suspension;
- transfer (class or school);
- expulsion; and
- other appropriate discipline as outlined in the Education Act, other LDSB policies, or applicable Code(s) of Conduct.

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6.3 For other user respondents action taken could be as follows:

- a letter of disapproval and warning;
- revoking of permits or contracts;
- issuing a trespass notice; and
- other remedies as applicable by law.

7.0 Withdrawn & Abandoned Complaints

7.1 A complainant who has submitted a formal or informal complaint under this policy may opt at any time to withdraw their complaint.

7.1.1 Intent to withdraw a complaint must be submitted to the investigator or RSO in writing.

7.1.2 Once a complaint is withdrawn, the file will be considered closed and cannot be revived. The complainant can resubmit the complaint to open a new file, subject to the time limits outlined in this procedure.

7.2 A complainant can also voluntarily elect to forgo their formal complaint and investigation to instead participate in any options outlined in Section 4 – Informal Complaint Process.

7.3 The investigator will take all reasonable steps to contact and gather information from the complainant and all parties involved. Should the complainant cease contact with the investigator during the investigation, the complaint file may be deemed abandoned.

7.3.1 The investigator must demonstrate that they attempted to communicate with the complainant without response for a period of at least thirty (30) days in order to deem a complaint abandoned.

7.3.2 The investigator will notify the RSO (or other designated party) that the file is abandoned and closed. These files cannot be reopened.

7.3.3 Complainants may resubmit their complaint to open a new file, subject to the time limits outlined in this procedure.

8.0 Records

8.1 All information will be gathered and dealt with in accordance with the Municipal Freedom of Information and Protection of Individual Privacy Act and be marked “PRIVATE AND CONFIDENTIAL”. Records of investigation will be kept securely and according to the record retention schedule at LDSB.

8.2 Records of investigation may include copies of the complaint, details regarding the incident/complaint, investigation notes, summaries, or reports.

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- 8.3 Human resources will maintain investigation records pertaining to employees in a confidential file.
- 8.4 Records shall be kept for a period of a minimum of two years and in accordance with LDSB's Records Retention Schedule. If, at the time prescribed in the retention schedule, there is no litigation, investigation, ongoing concerns, or further activity under these procedures and the 7030 Human Rights and Workplace Harassment Policy involving a party to the original complaint, all records of the complaint may be destroyed. A record of the type of document destroyed, by whom and when, should be kept in accordance with privacy legislation.
 - 8.4.1 The director of education and superintendent of human resources must approve the destruction of records of the complaints from an employee's confidential file. Approval will not be unreasonably withheld.
 - 8.4.2 For records of complaints against a superintendent, the director of education should follow the advice of the external legal counsel who managed the complaint.
 - 8.4.3 For records of complaints against the director of education, the Board of Trustees should follow the advice of the external legal counsel and human resources expert who managed the complaint.

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9. Review

These procedures will be reviewed annually, in accordance with the Occupational Health and Safety Act, R.S.O. 1990, subsection 32.0.1(1).

<u>Cross Reference</u>	<u>Date Approved</u> April 19, 1994 <u>Date Revised</u> June 22, 2004 April 22, 2008 April 23, 2013 November 24, 2020 February 27, 2024 April 22, 2025	<u>Legal Reference</u> Education Act Safe Schools Act Ontario Human Rights Code Occupational Health and Safety Act Policy/Program Memorandum 120 – Reporting Violent Incidents Policy/Program Memorandum 128 – Provincial Code of Conduct & School Board Codes of Conduct
7030 Workplace Harassment and Human Rights Procedures 7040 Violence in the Workplace 1020 Equity and Inclusive Education - Faith and Creed Accommodation Guideline Appendix A 8070 Safe Schools, System Expectations 8071 Bullying Prevention and Intervention 8072 Sexual Orientation and Gender Identity 8075 Service Animals in Schools Trustee Code of Conduct		