

NLSchools refers to all public K-12 English schools and school-related facilities under the jurisdiction of the Department of Education, Education Operations Branch and all employees working therein providing services and supports to such schools, including those who work in the areas of school facilities, student transportation, program implementation, student services, and procurement.

Policy Name

Respectful Workplace/Harassment Prevention and Resolution

Policy Statement

All employees are entitled to a respectful workplace. The Department of Education will foster a respectful workplace through the prevention and prompt resolution of harassment and discrimination. The department will provide a forum for resolving harassment and discrimination early and make available a means through which NLSchools employees can seek resolution options to address harassing and/or discriminatory behaviour.

The Respectful Workplace/Harassment Prevention and Resolution Policy (the “Policy”) is intended to achieve these objectives.

Harassment and discrimination are unacceptable and will not be tolerated. When harassment or discrimination has been determined to have occurred, disciplinary action, up to and including dismissal, shall be taken.

Background

The Department of Education is committed to providing a work environment where people are treated with dignity and respect. A respectful workplace will allow employees the opportunity to complete their work in a safe, effective and efficient manner, free from harassment and/or discrimination. The purpose of this Policy is to outline expectations for appropriate conduct in the NLSchools workplace and the resolution process for employees who believe they are experiencing harassing or discriminating conduct.

Scope

This Policy applies to all employees: unionized, non-unionized and management; full-time, part-time, casual, substitute; permanent or temporary; apprentice, work-term/intern or contract within NLSchools. Bargaining unit employees should also consult their respective collective agreements.

Definitions

Complainant

Any employee who has brought forward or filed a complaint under this Policy alleging discrimination or harassment.

Discrimination

The refusal to employ or continue to employ, or to intentionally or unintentionally deny a right, benefit or opportunity on the basis of an actual or perceived prohibited ground of discrimination as outlined in the [Human Rights Act, 2010](#). Discrimination imposes burdens, obligations, or disadvantages on an individual or group not imposed upon others.

Harassment

- Comments or conduct which are abusive, offensive, demeaning or vexatious that are known or ought reasonably to be known to be unwelcome. Harassment may be intended or unintended.
- Any conduct that endangers any employee's employment, undermines any employee's performance, or threatens the economic livelihood of any employee.
- Any use of power or authority by a supervisor that endangers, undermines, threatens, interferes with or influences an employee's job, the performance of that job, or the economic livelihood of the employee. This does not include the legitimate and proper exercise of supervisory responsibilities such as distribution of work assignments or training opportunities, work evaluation, disciplinary measures taken for valid reasons and or staffing decisions.
- Bullying behaviour consisting of actions or verbal comments that are intended to intimidate, offend or humiliate a particular person or group of people.

Investigation

The systematic and objective examination of the facts relevant to a workplace harassment or discrimination complaint. An investigation may involve interviewing and obtaining signed statements from complainants, respondents, and witnesses, as well as a review of physical evidence such as documents or emails.

Mediation

A voluntary problem-solving process in which a neutral third party assists the parties to negotiate a resolution in good faith. Mediation may be held between two or more parties, is oriented to the future, and is not designed to lay blame, investigate facts, or determine guilt. Both parties must mutually agree to participate in mediation.

Procedural Fairness

Includes the right to be heard; the right to be treated without bias; the right to be informed of allegations being made and to be provided with an opportunity to respond to them, and the right to information regarding the status of the complaint.

Respectful Behaviour

The universal duty to respect all people and accept the differences that diversity brings to a workplace.

Respondent

Any employee against whom allegations of harassment or discrimination are made.

Sexual Harassment

Unwanted and unwelcomed conduct of a sexual nature.

Workplace

The workplace is any place where employees perform work-related duties or functions. Workplaces can include schools, buses, school-related activities and excursions, work-related social events, and other school-related facilities. Conferences and training sessions fall within the parameters of this Policy.

Policy Directives

1. Workplace harassment, as defined in the regulations of the [Occupational Health and Safety Act](#), will not be tolerated. All NLSchools employees are obligated to report observations or experiences of bullying, inappropriate conduct, and or workplace harassment.
2. All managers/supervisors/school administrators shall promote respectful workplaces and take a proactive role in addressing inappropriate conduct. When a supervisor / manager / school administrator becomes aware of situations involving alleged harassment or discrimination, they are obligated to intervene, even in the absence of a complaint.
3. Employees are obligated to report observed instances of workplace harassment to their manager.
4. Third party harassment (by contractor, student, parent or guardian) in the workplace will not be tolerated and employees who experience harassment will bring the issue to their immediate supervisor or school administrator.
5. Learning opportunities regarding respectful workplace and this Policy shall be made available to employees.

6. Every effort should be made to resolve workplace issues through an informal resolution process, with open communication and in a cooperative manner. Informal resolution can involve the immediate supervisor or a Human Resources Manager.
7. In cases where an employee believes that they are experiencing harassing or discriminating conduct, and where the situation cannot be resolved informally, the employee can access a formal complaint resolution process. The complaint must be made in writing and be submitted in accordance with the administrative procedures outlined for this Policy.
8. All complaints of harassment and discrimination shall, to the extent possible, be dealt with in a timely manner.
9. NLSchools encourages all employees to speak up when they believe they are experiencing harassing or discriminating conduct.
10. NLSchools will endeavour to ensure that complainants and respondents are treated fairly and respectfully throughout the process.
11. NLSchools will endeavour to protect victims of harassment and discrimination from any repercussions that may result from a complaint.
12. NLSchools will endeavour to protect the privacy of individuals involved, so long as doing so remains consistent with the enforcement of this Policy and adherence to the law.
13. Harassment and discrimination do not include supervisory and management actions, such as assignment of work, performance reviews, coaching, and disciplinary action, when conducted in a respectful manner and in good faith for valid reasons.
14. Where harassment or discrimination has been determined to have occurred, action, including disciplinary action, shall be taken, up to and including termination of employment.
15. A complainant who makes a complaint under this Policy that involves a falsehood or malicious intent, or is otherwise made in bad faith, shall be subject to appropriate disciplinary action.
16. This Policy is in addition to, and not a substitution for, such rights as an individual may have under applicable collective agreements, the **Human Rights Act, 2010**, and the **Criminal Code of Canada**.

Administrative Procedures

1. Duty to Report

Every worker is entitled to employment free from workplace harassment. The Department of Education, NLSchools is committed to eliminating, where possible, or otherwise, minimizing the hazard of workplace harassment. As part of NLSchools commitment to a respectful and harassment free workplace, employees are obligated to report inappropriate conduct in the workplace. Workplace harassment will not be tolerated as per the [Provincial Government's Occupational Health and Safety Regulations](#) (Section 24.1). Employees are obligated to take reasonable care and not engage in bullying or workplace harassment. Employees are required to report observations or experiences of bullying, inappropriate conduct and/or workplace harassment.

Responsibilities:

- 1.1. Supervisors are obligated to ensure the health and safety of workers, and are obligated to apply and comply with the Harassment Prevention Plan. When a supervisor/manager/school administrator is aware of situations where harassment or discrimination is present, they are obligated to intervene even in the absence of a complaint.
- 1.2. Employees are obligated to report observed instances of harassment or discrimination to their manager.
- 1.3. NLSchools will provide support to staff when workplace harassment occurs and when reported.
- 1.4. Employees will use the Harassment Report Form to report harassment.
- 1.5. In the absence of a completed Harassment Report Form, NLSchools has an obligation to investigate reports of harassment, and require the complainant to review and acknowledge acceptance of the statement taken as part of the report.

2. Third Party Harassment in the Workplace

When an employee feels they have been subject to harassment by a third party, such as a student, parent or guardian, or outside contractor, they should bring the issue to their immediate supervisor or school administrator. Immediate steps will be taken to bring the complaint to the attention of the third party and sufficient steps will be taken to stop the harassment. Depending upon the circumstances, these steps may include:

- Warning the third party that further harassment will (where possible) result in their expulsion from the workplace;
- Expelling the third party from the workplace. If it is not possible to ban the third party from the workplace, make other arrangements (where possible) to prevent or limit contact between the employee and the third party;
- Requesting the third party remove harassing materials or posts from social media sites, where the harassment is in the form of posting on social media sites;
- Seeking a legal remedy against the third party; for example, issuing a notice to a third party under the [Petty Trespass Act](#) and/or [Schools Act, 1997](#); and
- Applying other applicable policies including the [Student Suspension Policy](#) and [Safe and Caring Schools Policy](#).

3. Early Problem Resolution

Most workplace conflicts and issues can be resolved through early problem resolution interventions and initiatives.

- 3.1 Employees involved in a dispute or conflict are encouraged to attempt to resolve issues as soon as possible, with open communication and in a cooperative manner. Any employee who feels offended by the actions of another employee is encouraged to make it known as soon as possible to that person in an attempt to resolve the problem.
- 3.2 When NLSchools is made aware of a workplace conflict or receives a complaint from an employee regarding a workplace issue, every effort will be made to resolve the matter informally in a fair and objective manner.

4. Resolution Options

The resolution options outlined in this Policy may not necessarily be used in the order presented below. It is likely that one or more of the options would be used to resolve an issue. Depending on the nature of the case, NLSchools will determine if it is appropriate for a formal investigation to be initiated.

Please note, the Harassment Prevention Plan is not intended to discourage a worker from exercising his or her rights under the [Human Rights Act, 2010](#), the [Criminal Code \(Canada\)](#) or any other law of the province or of Canada.

4.1 Informal

- a) **Individual Intervention:** The employee experiencing the harassing or

discriminating conduct may choose to approach the other employee, either in person or in writing, to advise that the conduct is offensive and unwelcome and request that the conduct cease. The problem may be resolved at this point and no further action will be required.

- b) **Direct Supervisor Intervention:** The employee experiencing the harassing or discriminating conduct may decide to discuss the conduct with their direct supervisor. The direct supervisor must assess and determine the most appropriate action. The Human Resources Division may be consulted at this time for assistance.
- i. If the employee's complaint is against their direct supervisor or if the employee would prefer to speak with someone else, then they may consult with another person of authority, such as a Human Resources Manager.
 - ii. Steps to resolve the matter should be completed in a timely manner. If appropriate, additional information may be sought or a discussion may be held between the employees to resolve the matter.
 - iii. The supervisor should continue to monitor the situation to ensure the issue has been resolved. Intervention may be required in cases such as when there is a real or perceived threat to the health and/or safety of employees; the alleged conduct has impacted other employees, or there is evidence that the complainant fears retaliation. This option may also be initiated by a direct supervisor or manager who identifies inappropriate conduct and seeks to resolve such conduct before it escalates to harassment or discrimination. The employer shall protect workers from retaliation and provide support to workers when workplace harassment occurs.
- c) **Designated Human Resources Manager Intervention:** The employee experiencing the harassing or discriminating conduct may decide to discuss the conduct with a Human Resources Division representative and may submit a written complaint to the Division. Following discussion with the complainant, a designated Human Resources Manager will determine the appropriate course of action which may include, but is not limited to, mediation, referral to the Employee Assistant Program (EAP), accommodation, or the formal complaint resolution process.
- d) **The use of problem-solving mechanisms** such as coaching, counselling and mediation can, in many instances, resolve an issue and prevent a situation from escalating to the point where filing a

formal complaint is necessary. Mediation is encouraged, but is NOT appropriate in the following circumstances:

- i. Not all parties are sincerely committed to the process;
- ii. One of the parties is in a position to withhold or confer a benefit, since the authority/power imbalance may result in coercion;
- iii. Alleged actions may be of a criminal nature.

4.2 Formal Complaint Resolution Process

- e) Employees have available to them a formal complaint resolution process. If an employee wishes to make an official complaint about the conduct of another employee, they must submit the complaint in writing to the Senior Management Official (Human Resources) except when:
 - i. The complaint is against a member of the Executive Staff, in which case the complaint must be submitted to the Superintendent of Schools; or,
 - ii. The complaint is against the Superintendent of Schools, in which case the complaint must be submitted to the Office of the Minister of Education.
- f) Complaints should be as specific and detailed as possible. An official harassment/discrimination complaint should include the following details:
 - i. Specific information describing the alleged incidents;
 - ii. Where possible, time, dates and locations of the alleged incident(s);
 - iii. Where possible, witnesses to the alleged incident(s);
 - iv. Expectations of the complainant (i.e., what outcomes the complainant would like to see).
 - v. Please complete the Harassment Report Form and submit to your Human Resource Manager.

4.3 Investigation Procedures

An effective, fair, timely and impartial investigation of a formal complaint by an employee is fundamental to a timely and successful resolution of the situation. In situations where a formal complaint of harassment or discrimination has been submitted, NLSchools will conduct a preliminary review to determine the seriousness of the allegations and the most

appropriate method to address and resolve the issues. NLSchools may initiate a formal investigation process to determine whether the allegations are founded or not.

- g) A formal investigation must be approved by the Senior Management Official (Human Resources).
- h) NLSchools will determine the objectives of the investigation and whether the investigation will be conducted in-house by staff, or if an external investigator will be engaged. Investigations should be completed in a timely manner. The designated Human Resources Manager will explain the formal investigation process to all of the involved parties, including the sharing of information gathered. The following steps would generally be involved in the formal complaint resolution process:

Step 1: Referral for investigation

Step 2: Selecting and mandating an investigator

Step 3: Developing an investigation plan

Step 4: Conducting the investigation

Step 5: Validating the facts

Step 6: Analysis and conclusions

Step 7: Report – Human resources will contact the appropriate parties to provide notification of the results of the investigation and, where applicable, communicate any actions to be taken as a result of the investigation.

Step 8: Administrative closure

- i) A contract/memorandum of understanding will be signed with all external investigators, outlining the terms and conditions agreed to, and the objectives of the investigation.

5. Confidentiality

Respect for privacy is an important aspect of a respectful workplace. Issues related to harassment and discrimination should be treated confidentially; however, there are limitations to confidentiality. When a supervisor or manager becomes aware of a situation involving harassment or discrimination, they may be obligated to intervene. Such incidences could include concerns for the health and safety of employees or the public or a requirement in law to report the matter.

Complaints of harassment and discrimination will be received and managed in a confidential manner. Information will be used for its intended purpose only. Any

information obtained relating to workplace harassment, including personal information, will not be disclosed unless it is necessary for the purpose of an investigation, corrective action relating to the complaint or where required by law. People involved in the process, including the complainant, respondent, witnesses and others involved in resolving the complaint, will have access to information they need to receive. During the complaint process, parties (complainant, respondent) can generally expect to access their own personal information, which includes comments made about them by other individuals, as well as any other information (personal or otherwise) which is relevant to the investigation, the disclosure of which is consistent with resolving the complaint and ensuring a fair process. For example, parties to an investigation may expect to receive information related to the allegations in writing and be informed in writing of the outcome of the investigation and to receive a copy of the final report.

People involved in the process are required to maintain confidentiality throughout the investigation process.

Absolute confidentiality during a workplace investigation cannot be guaranteed as the resolution process must involve others. Information collected and recorded is subject to the [Access to Information and Protection of Privacy Act](#) and in the event that a request for information is received, information would be released in accordance with ATIPPA. Information could also be released as a result of judicial or quasi-judicial proceedings. Documentation of any discipline relating to a complaint under this Policy will be treated in accordance with relevant collective agreements and administrative procedures.

6. Rights and Obligations of Complainants and Respondents

6.1 Rights of Complainants

Complainants have a right to:

- a) Have their complaint treated seriously and investigated thoroughly;
- b) Have their complaint held in confidence except as necessary for the investigation;
- c) Be accompanied by another person, including a union representative, for support during all interviews related to the complaint;
- d) Expect that reasonable steps will be taken to ensure that they are protected from any repercussions resulting from the filing of a complaint; and
- e) Be informed of the outcome of any investigation and be provided with any reports resulting from the investigation.

6.2 Obligations of complainants

Complainants are expected to:

- a) Make a complaint/seek assistance within a reasonable period of time;
- b) Cooperate with those responsible for reviewing the complaint;
- c) Keep their involvement and complaint confidential; and
- d) Express the complaint honestly and accurately.

6.3 Rights of Respondents

Respondents have the right to:

- a) Be informed that a complaint has been filed;
- b) Be fully informed of all of the allegations;
- c) Be accompanied by another person, including a union representative, for support during all interviews related to the complaint;
- d) Respond to the allegations, or
- e) Decline to respond to the complaint or allegations, and
- f) Be informed of the outcome of any investigation and be provided with any reports resulting from the investigation.

6.4 Obligations of Respondents

Respondents are expected to:

- a) Keep their involvement and the complaint confidential, except as necessary for investigation of the complaint;
- b) Seek assistance or advice from a supervisor or union representative on an appropriate course of action; and
- c) Not impede the investigation.

7. Information Management

- 7.1 All information and records resulting from the complaint, investigation and resolution shall be maintained in an appropriate location under secure measures and separate from employee files.
- 7.2 Collection, use, disclosure and disposal of the information and records shall be done in accordance with relevant records management policies, relevant collective agreements and the [Access to Information and Protection of Privacy Act.](#)

8. Recourse and Resolution

- 8.1 Intervention in the aftermath of a complaint may be required to restore a positive and respectful work environment. This may involve activities such as conflict resolution and debriefing sessions. The Senior Management Official (Human Resources) or designate is responsible for determining appropriate restorative actions and monitoring their implementation.
- 8.2 Nothing in this Policy is intended to modify NLSchools right to impose disciplinary action where appropriate.
- 8.3 Depending upon the nature of a complaint, other recourse may be appropriate, including a report to the police (e.g., in the event of a threat, assault or sexual assault).
- 8.4 Allegations of procedural errors may be referred to the Office of the Superintendent of Schools for review. Such allegations must be presented to the Superintendent's office within 20 days of the complainant or respondent receiving a decision of an investigation under this Policy.

9. Annual Review

The Harassment Prevention Plan will be reviewed as necessary, but at least annually.

RESOURCES/REFERENCES

- Human Resources Secretariat, Government of Newfoundland and Labrador [Harassment and Discrimination-Free Workplace Policy](#)
- Treasury Board of Canada Secretariat: Policy on [Harassment Prevention and Resolution](#)