

### Discrimination and Harassment

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#### Background

Any act of discrimination or harassment including physical and verbal acts committed by or against any employee, student, volunteer, contractor or any worker while on the Academy's premises or engaged in the Academy's business, activities or social events, is unacceptable and not tolerated.

Gwynne Valley Rural Academy (GVRA) is committed to:

- Investigating reported incidents of discrimination or harassment in an objective and timely manner;
- Taking necessary action to eliminate or control the hazards due to discrimination or harassment; and
- Providing appropriate support for victims.

#### Definitions

*Discrimination* is defined as differential treatment which is to the detriment of an individual or group of individuals based on characteristics such as race, religious belief, color, sex, sexual orientation, gender identity, gender expression, marital status, physical or mental disability, age, ancestry, or place of origin.

This definition of discrimination is not applicable in circumstances where the Academy or its employees or agents are carrying out their duties pursuant to Board policy and administrative procedures relative to placement of students in programs or educational settings appropriate to the educational needs of the individual student.

*Harassment* means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person who knows or ought reasonably to know will or would cause offence or humiliation to a worker, or adversely affects the worker's health and safety. This includes conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation. Harassment may have the effect of implicitly or explicitly placing terms or conditions on an individual's work, study, access to services or opportunities.

This definition of harassment is not applicable in circumstances where GVRA or its employees or agents are carrying out their duties pursuant to Board policy and administrative procedures relative to placement of students in programs or educational settings appropriate to the educational needs of the individual student.

*Person in Authority* is an individual who has supervisory responsibility for the respondent.

Complainant is an individual who makes a discrimination or harassment complaint.

Respondent is an individual against whom a discrimination or harassment complaint is filed.

*Sexual Harassment* is unwanted sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature which:

- Implicitly or explicitly makes submission to such conduct, a term or condition of an individual's work or study;
- Affects access to services, employment, or educational opportunities; or
- Creates a hostile or offensive environment and unreasonably interferes with an individual's work or study.

Sexual harassment has the effect of intimidating, embarrassing, coercing, or humiliating the victim. The personal impact upon the individual may be expressed in physical, psychological, or economic form. It is not a relationship of mutual consent.

## Procedures

1. Any individual subjected to discrimination or harassment has a responsibility to make it clear to the alleged offender and, if necessary, any individual in a position of authority that the behaviour is unacceptable and must be discontinued immediately.
2. Any person in a position of authority who receives a complaint is responsible for ensuring that the complaint is resolved.
3. Any person who submits, knowingly, willfully, and intentionally, a malicious complaint based on false allegations shall be subject to disciplinary action.
4. A person affected by this Administrative Procedure is in no way prevented from the exercise of their rights pursuant to any other law.
5. Confidentiality and Disclosure
  - 5.1. No information about the circumstances related to an incident of harassment, the persons involved and any witnesses will be disclosed except:
    - 5.1.1. When necessary to investigate the incident or take corrective action;
    - 5.1.2. To inform persons involved in the incident of the investigation and any corrective action taken to address the incident; or
    - 5.1.3. As required by law.
6. Informal Complaint Resolution Procedures
  - 6.1. Responsibility of an individual making an informal harassment complaint:
    - 6.1.1. Ask for Information and Assistance
      - 6.1.1.1. Staff can obtain advice and assistance regarding strategies for confronting harassment at an interpersonal level by contacting the Superintendent.
      - 6.1.1.2. Students can obtain advice and assistance regarding strategies designed to address peer harassment or teacher-student harassment by contacting their principal.
    - 6.1.2. Make Your Objections Known
      - 6.1.2.1. Make it clear to the individual directly, and if necessary, through a person in a position of authority, that the behaviour is unacceptable and must be discontinued. The respondent may be unaware that the behaviour is offensive and may be in violation of Board policy or administrative procedures.

- 6.1.2.2. Failure to make your objections known through an informal, verbal complaint does not preclude the filing of a formal complaint with the Academy, the Alberta Teachers Association, the Registrar or the Alberta Human Rights Commission.
- 6.1.3. Keep Written Records
  - 6.1.3.1. To assist you in addressing the issue clearly, and in the event that informal attempts at resolution fail, it is recommended that:
    - 6.1.3.1.1. Written records be maintained of the incident(s) in order to provide a detailed account of when and where such behaviour occurred, and the effect it had on you psychologically, physically, or economically.
    - 6.1.3.1.2. Written records be maintained of all attempts to inform the respondent of the unacceptable nature of the behaviour directly, or through reports to a person in authority.
- 6.2. Responsibility of the Authority Receiving an Informal Complaint
  - 6.2.1. If you are in a position of authority over the respondent and receive an informal, verbal complaint regarding harassment, you are required to take corrective action.
    - 6.2.1.1. Provide the complainant and the respondent with information regarding discrimination and harassment, including Board policy or administrative procedures, and information on available mechanisms for resolving complaints.
    - 6.2.1.2. The person in a position of authority is responsible for assisting the complainant in speaking to the respondent, or must speak to the respondent directly if requested to do so in an effort to resolve the complaint informally. The complainant is not required to be present during this discussion. The respondent is entitled to know the name or names of individuals making the informal complaint.
    - 6.2.1.3. Advise the complainant and the respondent that guidance and counselling services can provide additional assistance regarding strategies which can be used in an attempt to end harassment or for informally resolving the complaint.
    - 6.2.1.4. The person in authority who received the complaint is responsible for monitoring the status of the complaint to see that it is satisfactorily resolved.
- 6.3. If an Informal Harassment Complaint is Made Against You
  - 6.3.1. A staff member may wish to consult with a representative or an administrator, and a student may wish to consult with the administrator in order to seek clarification or assistance in resolving an informal complaint.
  - 6.3.2. If an individual tells you that your behaviour is offensive, unwelcome, or intimidating, it is expected that you will stop.
  - 6.3.3. If your behaviour is in violation of Board policy or administrative procedures and you do not stop when informed through this informal approach, a formal harassment complaint may be filed against you.

- 6.4. Voluntary Mediation
  - 6.4.1. If the individual in a position of authority is unable to resolve the complaint, the complainant and respondent will be asked whether they are willing to enter into voluntary mediation in an attempt to resolve the complaint satisfactorily. Through the mediation process, a mutually acceptable resolution of a harassment charge may be worked out in which an educational and preventive focus is emphasized rather than sanctions or punishment. The goal is to ensure that the harassment ceases and does not reoccur in the future.
    - 6.4.1.1. If both parties are willing to enter into mediation, a mediator acceptable to both, will be appointed by the Superintendent.
    - 6.4.1.2. If the informal complaint is not resolved through mediation, a formal complaint can be filed.
- 6.5. Outcome of an Informal Complaint
  - 6.5.1. If a complainant confronts the respondent directly and resolves the problem at that level, no sanctions are applied by the Academy.
  - 6.5.2. If an individual in a position of authority is asked to speak to the respondent and the behaviour appears to be in violation of Board policy and administrative procedures, a warning may be issued indicating that such behaviour is unacceptable and must stop, or a formal complaint may be initiated.
  - 6.5.3. If both parties enter voluntary mediation, an acceptable resolution may be achieved, or a formal investigation may be initiated.
- 7. Formal Complaint Resolution Procedures
  - 7.1. Responsibility of an Individual Filing a Formal Complaint
    - 7.1.1. A formal complaint consists of a signed written statement outlining the charges, describing the specific incident or incidents, the dates if available, the psychological, physical, or economic effect of the behaviour and the type of change of behaviour which would be acceptable.
    - 7.1.2. A formal complaint may be filed up to one year from the date of the most recent incident cited in a letter of complaint.
    - 7.1.3. The Complainant is responsible for notifying the person in authority if a complaint is filed with the Alberta Human Rights Commission, the Alberta Teachers Association, Alberta Occupational Health & Safety, the Registrar, or the Police, or if civil court action is initiated while the charges are still under review by the Academy. GVRA may elect to process the complaint or stay the procedures, pending the outcome of another investigation.
  - 7.2. Responsibility of an Authority Receiving a Formal Complaint
    - 7.2.1. A formal complaint shall be accepted and processed by an individual having authority over the respondent, providing no more than one (1) year has elapsed since the most recent incident outlined in the complaint.

- 7.2.2. The individual in a position of authority who receives the complaint will verify that the charges may represent a violation of Board policy and administrative procedures.
  - 7.2.3. The person in authority who received the harassment complaint is responsible for notifying the respondent that a formal complaint has been received. A copy of the complaint will be provided. Procedures for resolving a formal complaint will be outlined.
- 7.3. Means of Resolving a Formal Harassment Complaint
  - 7.3.1. Within two (2) weeks of the filing of a formal complaint, an individual acceptable to both parties will be appointed by the Superintendent to conduct an investigation regarding the harassment complaint.
  - 7.3.2. The complainant and respondent will have an opportunity to provide written submissions to the investigator and an opportunity to respond to the other party's written submission.
  - 7.3.3. The complainant and respondent will have an opportunity to appear before the investigator to provide oral submissions. The complainant and the respondent will have a right to respond to one another's statements. The investigator will have the right to ask questions of the complainant and respondent.
  - 7.3.4. The complainant and respondent may have someone present to provide advice and assistance.
  - 7.3.5. The investigator's findings will be outlined in a report to the Superintendent.
  - 7.3.6. The complainant and the respondent will receive written notification of the Superintendent's decision. Any sanctions imposed by the Superintendent would be stated at that time.
- 7.4. Outcome of a Formal Complaint
  - 7.4.1. Charges upheld by the Superintendent:
    - 7.4.1.1. If the results of an investigation support the allegations and the findings are upheld by the Superintendent, a copy of the formal complaint and copy of the letter issued by the Superintendent will be retained on the Respondent's personnel file.
    - 7.4.1.2. A range of sanctions may be imposed by the Superintendent. The sanctions depend upon the nature and seriousness of the nature and seriousness of the offense.
    - 7.4.1.3. For staff, sanctions include a verbal or written reprimand retained in the Respondent's personnel file, demotion, suspension or termination of employment.
    - 7.4.1.4. The Complainant has the option of having a record of the incident kept on file or destroyed.
  - 7.4.2. Charges found to be unwarranted:
    - 7.4.2.1. If the results of the investigation indicate that the allegations are unfounded and the Superintendent upholds these findings, the complaint will be dismissed and a letter will be issued by the Superintendent indicating that the individual has been cleared of all charges.

- 7.4.2.2. The individual who has been cleared of harassment charges has the option of requesting that a copy of a letter to that effect be placed in his or her personnel file, or that no record of any charges be retained.
  - 7.4.3. Charges found to be based on false allegations:
    - 7.4.3.1. If the investigation indicates that the complainant's allegations were false and an attempt to cause harm to the respondent, the same range of sanctions which apply to harassment may be imposed.
    - 7.4.3.2. A letter stating the decision of the Superintendent and sanctions imposed will be placed on the complainant's personnel or student file.
- 8. Appeal Procedures
  - 8.1. Either party has the right to seek redress through civil court or file a complaint with the Alberta Teachers Association (if applicable), Alberta Occupational Health & Safety, the Alberta Human Rights Commission, or the Registrar. However, complaints must be filed with the Alberta Human Rights Commission within one (1) year of the most recent incident outlined in the letter of complaint.
    - 8.1.1. It will be the responsibility of the party seeking redress in this fashion to conduct the Human Rights Commission, a lawyer, or his/her representative to determine the steps, if any, s/he should take in carrying the action further.
- 9. Retaliation
  - 9.1. No student or staff member of the Academy shall take any action that could be perceived as being retaliatory or in reprisal against an individual who has filed a harassment complaint or served as a witness in a complaint. No reprisal shall be taken against an individual solely because the person was a respondent in a sexual harassment complaint which was dismissed.
  - 9.2. Retaliation against the complainant or any witnesses is considered a form of harassment and is subject to the same range of sanctions which may be imposed for other forms of harassment. Similarly, the respondent may not be subjected to retaliation or reprisal merely as a result of allegations of harassment.
- 10. Independent Investigations
  - 10.1. In the absence of a specific complaint or request for an investigation, the Superintendent or designate may initiate an independent investigation where:
    - 10.1.1. A pattern of discrimination or harassment inquiries or complaints received over time but appear not to be corrected.
    - 10.1.2. There is reason to believe that a broader, systemic problem exists in the learning and working environment which causes, contributes to or encourages discrimination or harassment;
    - 10.1.3. As the result of an investigation, a specific complaint is not supported but there is reasonable evidence that a broader systemic problem exists; or
    - 10.1.4. In any other circumstances where it is deemed appropriate.
  - 10.2. In the event an independent investigation is initiated:
    - 10.2.1. The investigation will be completed by someone appointed by the Superintendent; and

- 10.2.2. The affected parties will be advised of the:
  - 10.2.2.1. Independent investigation;
  - 10.2.2.2. Reason for initiating the investigation;
  - 10.2.2.3. Name of the investigator; and
  - 10.2.2.4. Process and procedures to conduct the investigation.

Reference: Section 11, 33, 52, 53, 197, 204, 222 Education Act  
Alberta Human Rights Act  
Child Youth and Family Enhancement Act  
Employment Standards Code  
Occupational Health and Safety Act, Regulations and Code  
Canadian Charter of Rights and Freedoms  
Canadian Human Rights Act  
Criminal Code  
Individual's Rights Protection Act  
Student Record Regulation 225/2006  
ATA Code of Professional Conduct  
Practice Review of Teachers and Teacher Leaders Regulation