

<p><b>ELK ISLAND CATHOLIC S.R.D. NO. 41</b></p> <p><b>LEGAL REFERENCES:</b>  <i>Canadian Charter of Rights and Freedoms, Alberta Human Rights Act, Occupational Health &amp; Safety Act, Regulations and Code, Alberta Employment Standards Code and Regulations, Alberta Student Records Regulations, Alberta School Act, Alberta Teachers Association Code of Professional Conduct</i></p> <p><b>CROSS REFERENCE:</b>  <i>Policy CN – Division Records, Policy GBL - Personnel Records, Policy GCPD – Suspension and Dismissal of Teachers, Policy GDP – Support Staff Suspension and Termination of Employment, Policy IFC – Student Conduct, Policy IG – Student Discipline</i></p>	<p><b>CODE:</b> GBEA-Policy</p> <p><b>TITLE:</b> Harassment</p> <p><b>ADOPTION DATE:</b> April 18, 2001</p> <p><b>REVISION DATE:</b> May 20, 2010</p>
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**Elk Island Catholic Separate Regional Division No. 41 is committed to providing and promoting a learning and working environment which continually fosters respect for the dignity and well being of all employees, students, trustees, parents, and volunteers. Such individuals have a right to an environment free from discriminating, threatening, and personal harassing, including sexual harassing behaviors. Therefore, harassment in the learning and working environment will not be tolerated and is strictly prohibited.**

**The Board affirms its Catholic faith values and specifically its commitment to human rights as outlined by the Alberta Human Rights Commission and thus will not tolerate actions of harassment. The Board is committed to the investigation of reported incidents of harassment in a timely manner and the taking of any necessary action(s) or remedies as a result of an investigation.**

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## 1. Definitions

- 1.1 “personal harassment” - is any unwelcome behavior, conduct or communication, directed intentionally or unintentionally at an individual that is offensive to that individual and is based on the rights identified in the *Alberta Human Rights Act*, including, but not limited to, race, religious beliefs, colour, gender, age, physical disability, mental disability, ancestry, place of origin, marital status, source of income, family status or sexual orientation. Personal harassing behavior may include but is not limited to threats, intimidation, ostracism, offensive gestures, offensive remarks or jokes, demeaning or humiliating actions or behavior that supports a hostile or poisonous environment.

The test in determining if an action is harassing is whether a reasonable person knows or ought to know that the behavior would be considered unwelcome or inappropriate by the recipient. Such an action may be a single event or may involve a continuing series of incidents. It may involve the abuse of authority or position, or it may involve relations among co-workers and affiliated personnel. Personal harassment however does not include the appropriate exercising of an individual's supervisory authority.

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**CODE: GBEA-Guidelines****TITLE:** Harassment  
(Page 2 of 8)**ADOPTION DATE:** April 18, 2001**REVISION DATE:** May 20, 2010

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- 1.2 “sexual harassment” - is any unwelcomed behavior, conduct or communication, directed intentionally or unintentionally at an individual which is sexual in nature which directly or indirectly affect or threaten in an adverse manner a person’s job security, prospects, promotion, earnings, or working conditions and includes but is not limited to unwelcomed physical contact (ie. patting, pinching, rubbing, grabbing), unwelcome remarks or compromising invitations or requests, verbal abuse or display of suggestive pictures, leering, whistling, innuendoes, jokes, demands for sexual favors, stalking, embarrassing, suggestive or threatening language, displays of pornographic materials, sexting, or behavior that supports a hostile or poisonous environment.
- 1.3 “working and learning environment” - is the immediate school or school jurisdiction work site and may also include;
- (i) a playground
  - (ii) a school bus
  - (iii) any school or work related social activities
  - (iv) any school or work related travel and field trips
  - (v) any settings where the individuals involved are engaged in work related or school related activity such as field placement or a cooperative educational work term, and

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(vi) the use of electronic or digital media such as telephone, fax, email, network computers and internet communications at any time.

- 1.4 "hostile or poisonous environment" - is a learning and working environment in which the actions of one or more people may not be directed at any one person in particular but contribute to an atmosphere which directly or indirectly affects a person's ability to work or learn effectively.
  - 1.5 "complainant" - is a person who has reported a situation that appears to be a form of harassment related to the work and learning environment.
  - 1.6 "alleged harasser" - is a person accused of any above form of harassment related to the work and learning environment.
  - 1.7 "harasser" - is a person who, as a result of an investigation, has carried out any harassing behavior.
2. Employees, students, parents, volunteers, and visitors must conduct themselves in a manner which promotes and protects the best interests and well being of employees, students, co-workers, parents, volunteers, and visitors.

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3. An employee, student, parent, volunteer, or visitor who subjects an employee, student, parent, volunteer or visitor to any form of harassment may be subject to disciplinary action up to and including dismissal from employment or exclusion from the Division learning and working environment.
4. Action may be taken against members of the public whose conduct has resulted in any form of harassment of employees, students, parents, volunteers, visitors or representatives of the Board. An employee or student who considers that he or she has been subjected to harassment in the learning or working environment by a person who is not a student, employee, parent or volunteer for the Board, should seek the advice of their immediate supervisor. The supervisor will take whatever action is deemed appropriate to ensure that the Board fulfills its responsibility to support and assist the individual who has been subjected to such alleged harassment.
5. It is the responsibility of all supervisory personnel to inform themselves and to make their employees, students, volunteers and visitors aware of this policy.
6. It is the responsibility of all employees, students, parents, volunteers, and visitors to help maintain a harassment-free, working and learning environment through, but not limited to, participating in education programs, reducing

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incidents of harassment by practicing incidents of prevention and reporting incidents of harassment as outlined in procedures.

7. Where an employee or student believes that a fellow employee or student has experienced or is experiencing harassment in the learning or working environment, and reports this belief to his or her immediate supervisor or principal, as the case may be, the supervisor or principal shall meet with the person who is said to have been subjected to harassing behaviors in the learning or working environment and shall take such steps as are appropriate under this policy up to and including referral of the complaint to the Superintendent of Schools.
8. In the absence of a specific complaint, the Superintendent may initiate an independent investigation where;
  - 8.1 there is a pattern of inquiries or complaints over which time suggests the existence of a specific problem which has been identified but not corrected.
  - 8.2 there is reason to believe that a broader, systemic problem exists in the learning and working environment which causes, contributes to or encourages harassment.

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8.3 as a result of an investigation, a specific complaint is not supported but there is reasonable evidence that a broader systemic problem exists, or

8.4 in any other circumstances the superintendent deems it appropriate.

9. Any retaliation against an individual for;

9.1 invoking this policy whether on their own behalf or on behalf of another individual;

9.2 participating or cooperating in any investigation under this policy;

9.3 or associating with a person who has invoked this policy or participated in procedures under this policy;

is strictly prohibited and will be subject to discipline, up to and including dismissal from employment, or exclusion from the Division’s working and learning environment.

10. If an individual has experienced retaliation, they must inform their supervisor, School Administrator or the Superintendent of Schools about the exact nature of the behavior.

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**CODE:** GBEA-Guidelines

**TITLE:** Harassment  
(Page 7 of 8)

**ADOPTION DATE:** April 18, 2001

**REVISION DATE:** May 20, 2010

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11. The Superintendent of Schools shall initiate an investigation into the allegations of retaliation.
  12. Complaints of harassment should be made within a reasonable period of time from the date of occurrence. Complaints which are filed more than one year from the date of the occurrence may not, at the sole discretion of the Superintendent, be investigated.
  13. Harassment inquiries or complaints are confidential and may only be disclosed to investigate and respond to a complaint and to advise the alleged harasser about the complaint and the identity of the complainant. Any unauthorized disclosure of confidential information relating to a harassment complaint may result in disciplinary action.
  14. If a harassment complaint is filed in good faith, and the complainant is an employee, no documentation will be placed in the complainant's file, regardless of the outcome. However, any employee who knowingly and wilfully submits a complaint based on false allegations shall be subject to disciplinary action and documentation shall be retained on his/her personnel file.
  15. If an investigation determines that a complaint falsely accused another of any form of harassment, knowingly or in a malicious or vindictive manner, the complainant may be subject to disciplinary action, up to and including

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dismissal, or legal action for an employee or suspension or expulsion from school for a student.

16. The Superintendent shall ensure that this policy is widely publicized and distributed among all supervisory personnel and staff members.
17. This policy does not affect an individual's right to file a complaint or to respond to a complaint with the Alberta Human Rights Commission or to seek other redress as may be provided by law, or by an employee's union or association. If circumstances warrant it, a charge of assault may be filed with the police. Complaints filed with the Alberta Human Rights Commission must be received within 1 year of incident.

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1. If an employee, student, volunteer, or visitor believes they are being harassed, they should:
  - 1.1 **Tell the harasser to stop:** If comfortable in doing so, immediately inform the alleged harasser of the unwelcome behavior and tell the alleged harasser to stop. This can be done verbally or in writing stating disapproval of the alleged harasser's behavior and/or actions. Individuals who believe they have been the subject of harassment have a responsibility to make their objection known to the alleged harasser. Individuals can seek the support of their immediate supervisor, union or association representative as to how to proceed.
  - 1.2 If not comfortable confronting the alleged harasser, an individual may contact a colleague and/or supervisor to provide informal intervention towards an acceptable resolution of the situation. Students may obtain advice or assistance regarding strategies designed to address individual or peer harassment by contacting a teacher, a counsellor or the school principal. The use of informal intervention is not a pre-requisite to seeking a formal resolution.

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- 1.3 **Keep a record:** Whether an informal process or a formal process is carried out, a written record of dates, times, places, the nature of the behavior and the names of any people who may have witnessed the incidents should be kept. Also, an indication of what action has been taken to stop the harassment should be noted.

A formal complaint may proceed in the following instances:

- (a) If the complaint has not been resolved at the informal level; or
- (b) should the harassment continue; or
- (c) the complainant, complainant's supervisor or Superintendent believes that the formal process is more appropriate.

- 1.4 **File a Formal Complaint:** If the harassment or unfair treatment resulting from any form of harassment does not stop after speaking to the alleged harasser, or if the individual believes there are reasonable grounds, the immediate supervisor or school principal should be contacted immediately. If the supervisor or school principal is the alleged harasser, his or her immediate supervisor or, alternatively, the Superintendent should be contacted.

- 1.5 **Formal Statement:** When reasonable grounds exist, the individual should make a full written and signed complaint. Complaints should be filed as soon as possible to ensure witnesses are available, details are

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not forgotten and the situation is resolved without delay. A union or association representative may accompany an employee for consultative purposes.

2. A complainant should report the complaint through a formal statement to one of the following individuals:
  - (a) Director or Supervisor
  - (b) Superintendent or designate
  - (c) Union or Association Representative

A complainant who is a student should report the problem to a teacher, counselor, or school administrator.

A complaint against the Superintendent should be made in writing to the Chair of the Board who shall, in conjunction with legal advice, determine the appropriate procedure to be followed in the circumstances.

3. It is the responsibility of a teacher, counselor, school administrator, or any person supervising one or more individuals to take immediate and appropriate action to report or deal with incidents of harassment of any type whether brought to their attention or personally observed. Under no circumstances

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should a legitimate complaint be dismissed or downplayed nor should the complainant be told to deal with it personally. In the event of any form of harassment, the matter may proceed through either an informal or formal resolution. The Superintendent or designate, or in the case of students, the school principal, may make the decision to pursue either an informal or formal resolution.

4. Individuals, including employees , volunteers, or visitors wishing to file a formal harassment complaint should:
  - 4.1 Document the nature of the alleged harassment, the name of the alleged offender and the date(s), time(s) and location(s) of the harassment
  - 4.2 Meet with the Superintendent (or designate) to review the information; and
  - 4.3 File a written signed statement of complaint with the Superintendent or designate.
5. All parties concerned shall treat these matters in strict confidence. Information relating to the complaint will only be disclosed to the extent necessary to investigate the complaint.

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6. Upon receipt of a formal harassment complaint, and where the Superintendent or designate determines that the complaint shall be resolved formally, the Superintendent or designate shall:
  - 6.1 Advise the complainant that they have the right to file a complaint with the Alberta Human Rights Commission or to report the matter to the police where there is an indication that a criminal offence may have been committed;
  - 6.2 Notify the alleged harasser in writing of the complaint; provide the alleged harasser with a copy of the complaint; and inform the alleged harasser that an investigation has been initiated;
  - 6.3 Notify the immediate supervisor(s) of the name of the alleged harasser and the name of the complainant and that a formal complaint has been filed and that an investigation is underway;
  - 6.4 Conduct the investigation by interviewing the complainant and the alleged harasser. The investigation may also include interviews with witnesses and employees, both past and present;
  - 6.5 Consider all pertinent information; and

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6.6 Prepare an investigation report within twenty (20) working days of receiving a written complaint. If additional time is required to complete an investigation and prepare a written investigation report, the Superintendent or designate will notify the alleged harasser and the complainant regarding the extension in the timeline.

7. The Superintendent shall make a decision to dismiss or act upon the investigation report within ten (10) working days of receiving the report.

8. If an investigation resulting from an informal or formal complaint finds sufficient evidence to support that harassment occurred, the Superintendent may determine the appropriate course of action which may include, but is not limited to;

8.1 Discipline of an employee found to have committed an act of harassment, which may range from a reprimand up to and including dismissal.

8.2 Referral of the matter to the appropriate legal authority with a recommendation for formal charges against the individual found to have committed an act of any form of harassment.

<p><b>ELK ISLAND CATHOLIC S.R.D. NO. 41</b></p> <p><b>LEGAL REFERENCES:</b>  <i>Canadian Charter of Rights and Freedoms, Alberta Human Rights Act, Occupational Health &amp; Safety Act, Regulations and Code, Alberta Employment Standards Code and Regulations, Alberta Student Records Regulations, Alberta School Act, Alberta Teachers Association Code of Professional Conduct</i></p> <p><b>CROSS REFERENCE:</b>  <i>Policy CN – Division Records, Policy GBL - Personnel Records, Policy GCPD – Suspension and Dismissal of Teachers, Policy GDP – Support Staff Suspension and Termination of Employment, Policy IFC – Student Conduct, Policy IG – Student Discipline</i></p>	<p><b>CODE:</b> GBEA-Procedures</p> <p><b>TITLE:</b> Harassment (Page 7 of 11)</p> <p><b>ADOPTION DATE:</b> April 18, 2001</p> <p><b>REVISION DATE:</b> May 20, 2010</p>
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- 8.3 Referral of the victim and alleged harasser, if an employee, to the Division's Employee Assistance Program for counselling and support.
- 8.4 Recommend to the victim that they seek legal advice about personal protection and/or compensation from the individual found to have committed an act of harassment.
- 8.5 Referral of the matter to Division legal representatives to assist in obtaining protection of employees, volunteers, parents, board representatives.
- 8.6 Any combination of the above or any other action deemed appropriate to ensure the safety and well-being of affiliated personnel and the Division's interests.
9. Where appropriate, the Superintendent or designate may consult with the Alberta Human Rights Commission or legal counsel to review precedents in similar cases, in order to recommend a fair and just resolution to the matter.
10. The investigation report may be discussed with the immediate supervisor prior to a final decision being made.

<p><b>ELK ISLAND CATHOLIC S.R.D. NO. 41</b></p> <p><b>LEGAL REFERENCES:</b>  <i>Canadian Charter of Rights and Freedoms, Alberta Human Rights Act, Occupational Health &amp; Safety Act, Regulations and Code, Alberta Employment Standards Code and Regulations, Alberta Student Records Regulations, Alberta School Act, Alberta Teachers Association Code of Professional Conduct</i></p> <p><b>CROSS REFERENCE:</b>  <i>Policy CN – Division Records, Policy GBL - Personnel Records, Policy GCPD – Suspension and Dismissal of Teachers, Policy GDP – Support Staff Suspension and Termination of Employment, Policy IFC – Student Conduct, Policy IG – Student Discipline</i></p>	<p><b>CODE:</b> GBEA-Procedures</p> <p><b>TITLE:</b> Harassment (Page 8 of 11)</p> <p><b>ADOPTION DATE:</b> April 18, 2001</p> <p><b>REVISION DATE:</b> May 20, 2010</p>
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11. The Superintendent or designate shall provide a written summary of the investigation to the complainant and the harasser or alleged harasser.
12. All records of harassment or retaliation investigation must be kept separate from the harasser's personnel file except where the complaint is determined to be true.
13. If the complaint is found to be true, the record of investigation and final disposition will be kept on the harasser's personnel file.
14. After a period of (3) three years, from the date the complaint is resolved, the harasser may request that all related material be removed from their employee personnel file.
15. The decision to remove the information from the employee personnel file is at the discretion of the Superintendent.
16. If the investigation fails to disclose evidence to support the complaint, no record of the complaint can be kept in the alleged harasser's employee personnel file and the Superintendent will provide a formal letter to the alleged harasser confirming that the complaint has been dismissed.
17. Whether an investigation finds sufficient or insufficient evidence to support the complaint that harassment occurred, the investigation report and supporting

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documentation will be sealed and maintained in a locked and secure file only unsealed by the Superintendent, if future allegations occur.

### **Resolution of Complaints Involving Students**

18. Whether employees, students, volunteers, or visitors, all complaints filed shall be handled in accordance with the guidelines and procedures set out in this policy.
19. A student wishing to file a formal harassment complaint should in writing:
  - 19.1 Document the nature of the alleged harassment, the name of the alleged offender and the date(s), time(s) and location(s) of the harassment;
  - 19.2 Meet with the school principal to review the information; and
  - 19.3 File a formal written complaint with the school principal.
20. Where a student is either the complainant or alleged harasser, a school principal in consultation with the complainant, will determine whether to pursue a formal or informal resolution as set out in this policy.

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21. Upon receipt of a formal written harassment complaint, and where the school principal determines that the complaint shall be resolved formally, the school principal shall;
  - 21.1 Inform the complainant and alleged harasser that a complaint has been received;
  - 21.2 Conduct an investigation which may consist of personal interviews with the student complainant, the student alleged harasser and others who may have knowledge of the incidents or circumstances that led to the complaint.
  - 21.3 Notify the Superintendent or designate of the complaint when such a complaint involves an adult as either the complainant or alleged harasser.
22. The parents or guardians of the student complainant and/or student alleged harasser will be contacted at an appropriate point during the investigation.
23. All parties concerned shall treat these matters in strict confidence. Information relating to the complaint will only be disclosed to the extent necessary to investigate the complaint.

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24. Upon completion of an investigation, the school principal will administer appropriate disciplinary action if harassing behaviour has occurred.
25. Upon completion of the investigation, the school principal will communicate the results to both parties or to the parents or guardians as the case may be.
26. Student records must be kept in accordance with the Student Record Regulation 225/2006.