KAWARTHA PINE RIDGE DISTRICT SCHOOL BOARD

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POLICY STATEMENT

Policy Name: **Human Rights: Code-Based Discrimination and Harassment** **Policy Code: B-3.3**

Section: **Board and Community**

Established: October 25, 2022
Revised or Reviewed:

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1. POLICY STATEMENT

Building and maintaining an educational culture free of discrimination and harassment is vital to the Kawartha Pine Ridge District School Board (the Board) in acknowledging and expecting individual and collective responsibility. This includes accountability by all members of the Board community; and unwavering commitment by the Board to ensure a welcoming, anti-discriminatory, inclusive and affirming educational environment. In meeting legal obligations under the Human Rights Code (the Code), an effective, equitable and accessible human rights complaints process is paramount to addressing discrimination and/or harassment matters that are in violation of the Code. In alignment with human rights principles, a strong human rights culture is one that fosters the conditions for students to excel in learning-based environments and values the inherent dignity and worth of every learner. This enriches communities by nurturing diversity and is contingent on respect for human rights in all interactions. Being intentional in the approach to confronting discrimination and harassment, that often exacerbate barriers toward success and achievement, creates advantageous environments to succeed in life.

2. OBJECTIVE

The purpose of this policy is to confront and immediately address all reported or known instances and incidents of Code-based discrimination and/or harassment; and to act upon complaints of such behaviour promptly, fairly, judiciously and with due regard to confidentiality for all parties concerned. This policy recognizes that human rights principles, including provisions stipulated in the Code, remain integral to public education to embedding respectful working and learning cultures in which equity, diversity and inclusion are recognized as key pillars in preventing discrimination and/or harassment.

3. DEFINITIONS

Code
Human Rights Code

COHREA
Commissioner's Office of Human Rights, Equity and Accessibility

HREA Commissioner
Human Rights, Equity and Accessibility Commissioner

3.1 Supervisory Officers

Supervisory officers include all staff at the Board officially or unofficially designated and/or exercising managerial and supervisory responsibilities over staff. This includes superintendents, executive officers, principals, vice-principals, unit managers and others holding similar-type roles.

3.2 Human Rights[1]

Human Rights pertains to Ontario law that grants every person with a right to equal treatment with respect to services, goods and facilities without discrimination where one or more of the 17 protected grounds (as stipulated in the Code) is applicable. Human rights pertain specifically to Code-based complaints and will always be handled according to this policy and corresponding administrative regulation.

3.3 Protected Code Grounds

The Code recognizes that discrimination occurs most often because of a person's membership in a particular group in society. In the five social areas[2] below, the Code protects people based on the following prohibited Code grounds:

Age:	16-plus years (housing) 18-plus years (all other areas)
Ancestry:	Family descent
Citizenship:	Membership in a state or nation
Colour:	Associated with race
Creed:	Religion or faith

[1]This Policy also includes any new prohibited grounds that may be included in Ontario's Human Rights Code at a future date and prior to a cyclical review.
[2] The five (5) protected areas identified under the Code are: 1) Accommodation (housing) 2) Contracts 3) Employment 4) Goods, Services and Facilities5) Membership in Unions, Trade or Professional Associations

Disability:	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 forgoing, 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 An injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997; ("handicap")
Ethnic Origin:	Social, cultural or religious practices drawn from common past
Family Status:	A parent/child relationship
Gender Expression:	The external attributes, behaviour, appearance, dress, etc. by which people express themselves and through which others perceive that person's gender
Gender Identity:	A person's conscious sense of maleness and/or femaleness; this sense of self is separate and distinct from biological sex
Marital Status:	Applies equally to common-law, same-sex and opposite-sex relationships; includes widowhood, separation, divorce
Place of Origin:	Country or region
Race:	Common descent or external features such as skin colour, hair texture, facial characteristics
Receipt of Public Assistance:	In housing only
Record of Offences:	Provincial offences or pardoned federal offences (in employment only)
Sex:	Discrimination can be sexual in nature, or because of pregnancy; this ground includes the right to breastfeed in public areas or in the workplace
Sexual Orientation:	Includes lesbian, gay, bisexual, heterosexual, two-spirited, questioning, etc.

3.4 Harassment

Based on any prohibited ground(s) identified in the Code, engaging in a course of vexatious comments or conduct that is known or reasonably to be known to be unwelcome, unwanted, offensive, intimidating, hostile or inappropriate and includes sexual harassment.

Harassing conduct includes, but is not limited to:

3.4.1 epithets, remarks or innuendos;

3.4.2 showing or circulating offensive pictures, graffiti or materials whether in print form, email or other electronic means;

3.4.3 singling out an individual to humiliate, demean, or tease;

3.4.4 comments ridiculing an individual because of characteristics, dress, etc.

While often a pattern of comments or conduct, in limited circumstances a singular incident may be recognized as harassment, depending on the nature of the comment or conduct.

Personal conflict and reasonable action taken by the employer or supervisor relating to the management and direction of staff or the workplace is not harassment. Non-code workplace related harassment against an employee of the Board is based on the Occupational Health and Safety Act. Workplace harassment does not include legitimate performance management of an employee.

3.5 Sexual Harassment

A specific form of harassment that consists of:

3.5.1 sexual solicitation or unwanted sexual attention from a person who knows or ought reasonably to know that such attention is unwanted,

3.5.2 implied or expressed promise of reward for complying with a sexually oriented request,

3.5.3 implied or expressed threat of reprisal or actual reprisal for refusing to comply with a sexually oriented request,

3.5.4 a sexual relationship that constitutes an abuse of power in a relationship of authority, or

3.5.5 sexually oriented comment or behaviour that may reasonably be perceived to create a poisoned environment.

3.6 Discrimination

Adverse differential treatment of a person or group of persons on the basis of a prohibited ground of discrimination as set out in the Code. Differential treatment having an adverse effect usually includes the following elements:

3.6.1 not individually assessing the unique merits, capacities, and circumstances of a person;

3.6.2 making stereotypical assumptions based on a person's presumed traits; or

3.6.3 having the impact of excluding persons, denying benefits or imposing burdens.

Discrimination may be intentional or unintentional and occur directly or indirectly. Forms of discrimination include, but are not limited to:

- direct, indirect, subtle and adverse effect discrimination,
- harassment,
- sexual harassment,
- poisoned environment,
- systemic discrimination,
- association or relationship with a person identified by one of the prohibited grounds, and/or
- the perception that one of the prohibited grounds applies.

3.7 Discrimination Exception[3]

Nothing in Board policy or administrative regulations prohibits discrimination under special programs for advancing reasonable accommodation, equity programs and or pilot projects with the goal of achieving equity and inclusion for members of historically marginalized communities.

3.8 Systemic Discrimination[4]

Entrenched and institutional practices, systems and structures that operate to limit an individual's or group's rights to opportunities; or exclude an individual or group from participation on the basis of a prohibited ground. It is a pattern of

[3] Ontario Human Rights Commission. (n.d.). *Special Programs*. Retrieved January 26, 2018, from https://www.ohrc.on.ca/en/policy-preventing-discrimination-based-creed/8-defences-and-exceptions

[4] Ontario Human Rights Commission. (n.d.). *Forms of discrimination*. Retrieved January 10, 2018, from https://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability/6-forms-discrimination

discrimination that arises out of apparently neutral institutional policies or practices, that is reinforced by institutional structures and power dynamics, and that results in the conflicting and unequal treatment of members of certain groups. Systemic discrimination does not occur when the requirement, qualification or factor is in good faith and legitimate in the circumstances or is permitted by law.

3.9 Poisoned Environment[5]

A poisoned environment is a form of discrimination that creates a negative psychological and emotional environment for work or study and can arise from a single incident. It may be created by the comments or the actions of any person, regardless of their status. The comments or conduct do not have to be directed at a particular person.

3.10 Malicious Complaint

A claim that is deliberately and maliciously filed in order to damage the reputation of a person or group, or otherwise filed in bad faith, or which is known or ought to have reasonably been known by the Complainant to have no reasonable basis in fact may be considered harassment.

3.11 Reprisal[6]

Reprisal is the negative treatment or suggestion of negative treatment of a person because of their involvement in a human rights complaint, investigation or resolution process.

4. APPLICATION

4.1 Board Community

This policy applies to members of the Board community which includes all persons on Board premises, persons working on Board-related business (whether on or off Board premises), and persons involved with Board-sponsored programs at other premises, including students, staff, trustees, parents/guardians, volunteers, visitors, suppliers, service providers, corporate partners and community agencies. Members of the Board community also includes:

4.1.1 separately incorporated organizations operating on Board premises who voluntarily agree to submit to the processes under this policy,

[5] Ontario Human Rights Commission. (n.d.). *Forms of discrimination*. Retrieved January 10, 2018, from https://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability/6-forms-discrimination

[6] Ontario Human Rights Commission. (n.d.). *Reprisal*. Retrieved January 31, 2018, from http://www.ohrc.on.ca/en/search/site/reprisal#_edn114

4.1.2 organizations and individuals whose contracts require them to comply with Board policies, and

4.1.3 any person holding a Board appointment whether or not that person is an employee.

4.2 Prohibition of Code-based Discrimination and Harassment

At all times, the Board prohibits Code-based discrimination and/or harassment. Members of the Board community have the right to work, study and participate in all Board and Board-sponsored activities within an environment that is free of discrimination and/or harassment. It is an expectation of all members of the Board community to:

4.2.1 model respectful anti-discriminatory conduct, including refusing to engage in or condone behaviour contrary to this policy;

4.2.2 comply with the provisions of this policy, including confidentiality obligations;

4.2.3 participate in any procedures detailed in the administrative regulation taken under this policy; and

4.2.4 understand that failure to comply with the provisions of this policy (and administrative regulation) or any resolution agreed upon or imposed as a result of the procedures (administrative regulation), and/or refusal to participate in the procedures may result in disciplinary action deemed appropriate by the HREA Commissioner, pursuant to referral to the Director of Education.

5. RESPONSIBILITY

5.1 Supervisory Officers

Individuals with supervisory authority (both schools and non-school administrative academic units) are entrusted with responsibility for ensuring working and learning environments at the Board remain free from discrimination and/or harassment. This involves initiating positive measures and taking prompt action whenever they are aware and/or incidents of discrimination and/or harassment are brought to their attention. This includes, but is not limited to:

5.1.1 addressing incidents of possible discrimination and/or harassment that occur in the unit in a timely and confidential manner and, if deemed appropriate, seeking guidance from the COHREA or appropriate supervisor as may be required, and keeping accurate and timely documentation of any action taken;

5.1.2 educating themselves and those for whom they have oversight on matters pertaining to human rights;

5.1.3 taking the initiative to seek appropriate guidance, whenever necessary, when carrying out their responsibilities on Code-based discrimination and harassment;

5.1.4 upon request, participating in the resolution of informal complaints processes; and

5.1.5 implementing the recommendations (which may include discipline) when required, if deemed an outcome of a formal complaint investigation.

5.2 Human Rights, Equity and Accessibility Commissioner

In leading the COHREA, the HREA Commissioner is responsible for ensuring the Board's commitment to having a robust process for addressing Code-based complaints of discrimination and harassment by:

5.2.1 offering confidential consultation(s), upon request, to all members of the Board community;

5.2.2 providing advice and guidance, upon request, to superintendents, principals, vice-principals and other individuals with supervisory responsibility in carrying out their responsibilities under this policy;

5.2.3 providing advice and guidance to relevant parties to a complaint and those reporting incidents of discrimination and/or harassment on timely manner in navigating the complaints process;

5.2.4 maintaining impartiality and a non-biased approach at all times to complaints and in interactions with relevant parties to a complaint;

5.2.5 protecting the confidentiality of information received, while balancing the legal requirement to act promptly in investigating allegations of violations of this policy;

5.2.6 advancing the goals of the policy;

5.2.7 processing complaints fairly and without delay, if filed at first instance with the COHREA and assessed to be in its jurisdiction;

5.2.8 maintaining complaint records as specified in the procedures (administrative regulation); and

5.2.9 promoting education to Board staff on the Code rights and prevention of Code-based discrimination and/or harassment.

5.3 Director of Education

The Director of Education has oversight and jurisdiction in determining the parameters of this policy and the associated administrative regulation.

5.4 Administrative Regulation and Collective Agreements

This policy provides a comprehensive process detailed in the administrative regulation for addressing Code-based discrimination and/or harassment when they occur. Subject to provisions contained in applicable collective agreement(s), Code-based complaints will always be handled according to this policy and the corresponding administrative regulation.

6. RELATED POLICIES, ADMINISTRATIVE REGULATIONS OR PROCEDURAL DOCUMENTS

Board Policies:
B-1.1, Board Operation and Policy Development and Management
B-1.2, Code of Conduct
B-3.2, Equity, Diversity and Inclusion
ES-1.1, Safe and Caring Schools
ES-3.8, Special Education
HR-4.1, Occupational Health and Safety
HR-4.2, Workplace Harassment
HR-4.6, Disconnecting from Work
HR-5.1, Code of Ethics for Employees
HR-5.3, Code of Conduct for Employees

Administrative Regulations:
B-3.3.1, Human Rights: Code-Based Discrimination and Harassment
HR-4.6.1, Disconnecting from Work
HR-5.1.1, Code of Ethics for Employees

7. REFERENCE DOCUMENTS

Legislation:
Accessibility for Ontarians with Disabilities Act
Canadian Charter of Rights and Freedoms
Education Act
Human Rights Code
Occupational Health and Safety Act
Teaching Profession Act