



## Administrative Procedure 5130

# *Respectful Workplace*

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**Board Governance Policy Cross Reference:** [1](#), [11](#), [13](#)

**Administrative Procedures Cross Reference:**

[Reporting of Child Protection and Child Abuse](#)

[Student Code of Conduct](#)

[Workplace Safety and Health](#)

[Workplace Safety and Health – Investigating and Reporting Workplace Incidents and Refusals to Work](#)

[Workplace Violence Prevention](#)

**Form Cross Reference:**

[Respectful Workplace Acknowledgement Form](#)

[Respectful Workplace Complaint Form](#)

[Respectful Workplace Respondent Form](#)

[Violent Incident Report](#)

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**Legal/Regulatory Reference:**

[Provincial Teachers' Collective Agreement](#)

[Collective Agreement between the Canadian Union of Public Employees \(CUPE\) Local 737 and the Brandon School Division](#)

[The Manitoba Human Rights Commission](#)

[The Workplace Safety and Health Act](#)

[The Human Rights Code C.C.S.M.c. H175 Section 9 – 19](#)

[The Freedom of Information and Protection of Privacy Act](#)

[The Labour Relations Act Sections 6\(1\), 7, 133](#)

[The Personal Health Information Act](#)

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Brandon School Division is committed to building and preserving an environment that respects and promotes human rights, personal dignity, health and safety.

The Division supports the principle that all staff as well as students, parents/guardians, volunteers and members of the public are entitled to an environment that is free from any form of disrespectful behaviour including discrimination, harassment, sexual harassment and workplace violence.

To that end, the Division requires all staff, students, parents/guardians, volunteers and members of the public who visit the Division facilities or related events to conduct themselves in a manner which promotes and protects the best interests of students, staff and families.

In circumstances where differences and/or conflicts arise, the Division expects persons involved to respond professionally and follow procedures that diffuse and resolve the concern.

### Definitions

1. **Complainant** – A person reporting an incident of potential disrespectful behaviour.
2. **Respondent** – The person alleged to have committed the disrespectful behaviour, including staff, parents/guardians, volunteers or members of the public. If the respondent is a parent/guardian, volunteer or member of the public, it is recognized that the respondent's participation in any process herein is voluntary and cannot be mandated.
3. **Staff** – All persons employed or contracted by the Division as well as members of the Board of Trustees.
4. **Parents/Guardians, Volunteers or Members of the Public** – All persons who have involvement in the Division including partner agencies and visitors.
5. **Disrespectful Behaviour** – actions or comments that are inappropriate, demeaning or otherwise offensive behaviour intended or not to create an uncomfortable, hostile and/or intimidating work environment. Disrespectful behaviour may be found to have taken place in and outside the workplace. Types of behaviour considered disrespectful include but are not limited to:
  - 5.1. **Defamation** – any expression that attacks or injures the reputation or honour of an individual or recognized group by, amongst other things, false and malicious statements. Defamatory expressions malign, slander, or libel an individual or recognized group.
  - 5.2. **Discrimination** – as defined in the Manitoba Human Rights Code, the differential treatment of an individual or group on the basis of a Protected Characteristic rather than on personal merit.

5.3. **Harassment** – is objectionable conduct, comment or display made either at one time or on a continuous basis that demeans, belittles, or causes personal humiliation or embarrassment to any individual, or adversely affects an individual’s psychological, physical well-being or an individual’s employment opportunities.

Some types of harassment include, but are not limited to:

5.3.1. **Manitoba Human Rights Code prohibited grounds including:**

- ancestry, including colour and perceived race;
- nationality or national origin;
- ethnic background or origin;
- religion or creed, or religious belief, religious association or religious activity;
- age;
- sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- gender identity;
- sexual orientation;
- marital or family status;
- source of income;
- political belief, political association or political activity;
- physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device; or
- social disadvantage;

5.3.2. **Verbal Harassment** – slurs, jokes, insults, epithets, teasing, derogatory comments or threats of physical harm;

5.3.3. **Visual Harassment** – distribution and/or display of offensive written, electronic or graphic material including posters, symbols, cartoons, drawings or emails;

5.3.4. **Physical Harassment** – hitting, pushing or other aggressive physical contact, blocking a person’s way, aggressive invasion of personal space, touching or threats to take such action, or lewd or inappropriate gestures;

5.3.5. **Psychological Harassment** – bullying or abuse of authority which creates a risk to the health of another staff member. This type of harassment consists of a single instance or repeated instances of objectionable and unwelcome comments or conduct directed at another person which serve no legitimate purpose and have the effect of interfering with the other person's work performance or creating an intimidating or hostile work environment;

5.3.6. **Sexual Harassment** – may involve any intentional or unintentional, unwelcome sexually-oriented conduct, either implied or stated, including unwelcome sexual advances, requests for sexual favors, or other verbal or physical contact of a sexual nature. It also encompasses such conduct when it is made a term or condition of employment or compensation, either implicitly or explicitly, and when an employment decision is based on an individual's acceptance or rejection of such conduct. The following is a non-exhaustive list of the types of behaviour which could be considered forms of sexual harassment:

- unwelcome or offensive sexually related comments, sexual jokes, epithets, flirtations, advances or propositions;
- sexually degrading or vulgar words or written descriptions of a person;
- comments about a person's body, sexual orientation, sexual prowess or sexual deficiencies;
- conversation about one's own or someone else's sexual conduct or activities;
- conduct or comments consistently targeted at only one gender, even if the content is not sexual; and/or
- demanding or requesting sexual favors in exchange for favorable reviews, assignment, promotions, continued employment or promises of same.

5.3.7. **Harassment can be distinguished from normal, mutually acceptable socializing.** It is important to remember that it is the perception of the receiver of the potentially offensive message that determines whether something is acceptable or not (be it spoken, a gesture, a picture or some other form of communication which may be deemed objectionable or unwelcome).

5.3.8. **To understand the types of conduct that may not constitute harassment, the following examples are offered:**

- The exercise of normal management activities does not constitute harassment. Normal management of discipline, work performance or absenteeism, the assignment of tasks, the application of progressive discipline and even termination of employment constitute the legitimate exercise of management rights. These actions do not constitute harassment as long as management rights are not exercised in an abusive or discriminatory manner; and
- Difficult conditions of employment and professional requirements, job related stress and organization changes that are justifiable on an economic or technological basis where they affect personnel in a manner that is not arbitrary.

5.4. **Workplace Violence** – is the attempted or actual exercise of physical force against a person. It also includes any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against them and/or vandalism of personal property.

### **Guidelines**

The Division will not tolerate any form of disrespectful behaviour against any individual, including job candidates, staff, parents/guardians, volunteers, members of the public, and students, on any grounds. This commitment applies to such areas as training, performance, assessment, promotions, transfers, layoffs, remuneration, and all other employment practices and working conditions.

This Administrative Procedure is not intended to discourage or prevent any staff exercising any other legal rights under any other law. Further, a staff member has the right to file a complaint with The Manitoba Human Rights Commission.

### **The Division and Staff Responsibilities**

All individuals have a responsibility to create and maintain a respectful environment. No individual shall cause or participate in disrespectful behaviour.

### **Division Responsibilities:**

- create a safe and respectful work environment, free from disrespectful behaviour, as well as a psychologically safe workplace where the well-being of workers is promoted, and active measures are undertaken to prevent harm, whether negligent, reckless or intentional, to the psychological well-being of workers;
- review this Administrative Procedure in accordance with the requirements of The Workplace Safety and Health Act (Manitoba), as amended from time to time;
- ensure, as much as is reasonably practical, that no staff is subjected to disrespect in the workplace;
- support, assist and educate all staff and volunteers with respect to issues surrounding disrespect or difficulties associated with carrying out their duties;
- address situations, where possible, through an informal resolution process;
- conduct a risk assessment where complaints involve violence in the workplace (see **Risk Assessment**, page 13);
- take corrective action with anyone under its direction who subjects a staff member to disrespectful behaviour of another individual; and
- on an annual basis produce a written report on violent incidents; the Annual Workplace Violence Report must be provided to the Superintendent/CEO, Secretary Treasurer, Supervisors/Principals at each workplace location and the Workplace Safety and Health Committee.

### **Staff Responsibilities:**

- treat others with respect and dignity, and to speak up if they, or others, are being disrespected or a victim of violence, and report workplace violence to the appropriate person;
- work together in a professional manner and resolve issues in a respectful manner;
- report incidents of disrespectful behaviour to their Supervisor/Principal or Human Resources as soon as reasonably practical; however, formal complaints are to be filed within six (6) months of the incident, unless extenuating circumstances exist;
- cooperate in a respectful workplace investigation; any staff who gives evidence or information during an investigation or is involved in the process must keep the information confidential, except as necessary to effectively deal with the issue or where required at law; and

- staff have the right to assert their legal rights while meeting their responsibilities and in cases where conflict arises and normal means of resolution are not successful, they can adjourn meetings with angry persons, call for support from a colleague or administrator and report the incident to their Supervisor/Principal.

### **Supervisor/Principal Responsibilities:**

- set an example for appropriate workplace behaviour and foster a safe working environment free from disrespectful behaviour and workplace violence;
- must be sensitive to the climate in the workplace and address potential problems before they become serious;
- if they become aware of disrespectful behaviour in the workplace, they must take appropriate steps to deal with the workplace conflict and workplace violence seriously, quickly, fairly and in confidence in accordance with the Administrative Procedure herein; and
- upon request by a staff member, provide appropriate assistance in the submission of a formal complaint in accordance with the Administrative Procedure herein.

### **Workplace Safety and Health Committee Responsibilities:**

- review the workplace risk assessment results and provide recommendations to management to reduce or eliminate the risk of violence;
- review all reports forwarded to the committee regarding workplace violence and other incident reports pertaining to incidents of violence which result in personal injury or threat of personal injury, property damage, or police involvement;
- recommend corrective measures for the improvement for the overall health, safety and wellness of staff; and
- respond to staff concerns related to workplace violence and communicate these to management.

### **Safety First**

Staff faced with a potentially violent situation should exercise extreme caution and should consider the following:

- remain calm and, if applicable, try to distance themselves as quickly and safely as possible from the situation;
- employ safety techniques identified through training;
- if possible, call for assistance from other staff;

- if the aggressor attempts to leave the room/building, do not attempt to physically prevent this departure; rather, call the appropriate emergency service to intervene appropriately;
- immediately notify the Supervisor/Principal or someone in authority and complete an incident report if appropriate.

If you have suffered an injury or near miss as result of the incident, the incident should be reported in accordance with Workplace Accident Reporting and to the Workers Compensation Board.

Absent safety concerns, staff are encouraged to consider the following options available to deal with concerns of disrespectful behaviour.

### **Options If Faced With Disrespectful Behaviour**

#### **1. Observing an Incident of Disrespect**

If you observe an incident of disrespect, your options are to:

- record the date, time and nature of the incident, and the name of the person being disrespected, and any others present;
- approach the person you feel is being disrespected about the incident and offer support;
- express your concern or disapproval to the offender; and/or
- report the incident to your Supervisor/Principal.

#### **2. Informal Procedure**

If you believe you have been disrespected, you may:

- confront the offender personally, or in writing, clearly stating the unwelcome behaviour/action and requesting that it stop immediately;
- discuss the situation with the offender's Supervisor/Principal, your Supervisor/Principal, or any other Supervisor;
- request mediation from your Supervisor/Principal, or any other Supervisor or a member of Human Resources; and/or
- in cases involving a parent/guardian, volunteer or members of the public, make every attempt to meet or call with the Supervisor/Principal present.

Listen carefully to all perspectives with a focus on resolution.

Any staff member who feels disrespected can and should, in all confidence and without fear of reprisal, personally report the occurrence to their Supervisor/Principal.

The Division recognizes that in some situations, attempting informal resolution may be difficult or inappropriate or the individual may have told the offender to stop, but the offensive behaviour continues. In this case, you may:

- approach a Supervisor/Principal or a member of Human Resources on what to do next; and/or
- make a formal written complaint to the Office of Human Resources as outlined below.

### **3. Formal Procedure**

If you believe you have been disrespected or believe that you have witnessed a disrespectful situation, you may make a written complaint to the Office of Human Resources. Formal complaints must be in writing and signed by the individual. The written complaint must be submitted to the Assistant Superintendent - Human Resources (or alternatively the Superintendent/CEO for alleged violations involving the Assistant Superintendent or designate) and include the following information:

- the date and time of each incident you wish to report;
- the name of the person(s) involved in the incident(s);
- the name of any person or persons who witnessed the incident(s);
- a full description of what occurred.

Please refer to the Respectful Workplace Complaint Form.

Once a written complaint has been received, the Assistant Superintendent or designate shall determine, based on the content of the complaint, whether the concerns fall within the Respectful Workplace Administrative Procedure.

If the concern falls within the Administrative Procedure, depending on the risk assessment and circumstances, the Assistant Superintendent or designate will make a decision as to the appropriate party or parties to conduct the investigation into the incident; this may include any one or more of the following:

- Supervisor/Principal;
- a member of Human Resources;
- the Workplace Safety and Health Officer;
- Workplace Safety and Health Committee Co-Chair(s); and/or
- a Workplace Safety and Health Committee Member or Employee Representative;
- External Investigator.

### **Immediate Assistance Procedures**

In circumstances where there is danger of imminent harm, the Division may act immediately by taking such reasonable steps to prevent imminent harm as the circumstances dictate.

Further, in the event that a violent or threatening situation is imminent or occurring, the following measures and procedures may be taken by the Division:

**Removing the threat.** This may involve removing a staff member from a given area or completely from a building.

**Reporting to the local authorities:** Brandon Police Service and/or Royal Canadian Mounted Police.

The investigation will be completed as soon as reasonably practical following receipt of the written complaint, unless circumstances warrant otherwise. Unless a complaint is clearly frivolous or vexatious, an investigation will be conducted of all complaints of disrespectful behaviour.

If the concern does not fall within the Administrative Procedure, the Assistant Superintendent or designate will advise the complainant that it will not be pursued under the Administrative Procedure and will advise of other possible processes that may be appropriate.

The investigation may include the following components:

- a meeting with the complainant to review the complaint and to seek any such clarification as needed;
- a meeting with the respondent for the purposes of communicating the allegation(s) and receiving their version of events (which may be requested in writing);
- collection of all relevant evidence; and
- interviewing or requesting written statements from any other person(s) who may have knowledge of the incident(s) complaint.

Where applicable, the Union of the staff member against whom a complaint has been made will be notified of the allegations and the outcome of the investigation. Where staff interviews are necessary in an investigation, the staff member may also have Union representation present.

Depending on the circumstances, the Assistant Superintendent or designate will assess whether it is appropriate to temporarily change one or more individual's reporting relationship until the investigation is completed. The Assistant Superintendent or designate may also choose to relocate or remove a party to the proceeding from the workplace pending resolution of the complaint.

Throughout the course of the investigation, the investigator, the complainant and/or respondent may request the investigation be placed on hold in an effort to resolve the matter through an informal process. Such requests will be made to the Assistant Superintendent or designate for determination. If an informal process is approved and is successful, the file will be closed. If an informal process is not used or is not successful, the Assistant Superintendent or designate will reinitiate the investigation.

## **Resolution**

Upon completion of the investigation, the investigator shall prepare a written report summarizing the investigation findings and recommending corrective action/control measures that are identified as a result of the investigation to eliminate, control and/or maintain a respectful workplace, if necessary. The Division will inform the complainant and respondent of the results of the investigation in a timely manner.

Any staff or individual who has been found to have violated this Administrative Procedure may be subject to any one or more of the following:

- disciplinary action, up to and including termination of employment;
- immediate termination of service agreements; and/or
- legal action.

Violent action, threats and assault are considered a serious criminal offence and appropriate disciplinary and other measures will be taken by the Division. The Division may also report the conduct to the appropriate police agency.

Where possible, a consultative process of settlement including counseling and education components may be worked out with all persons involved.

Resolution mechanisms may consist of, but are not limited to, any one or more of the following:

- increased safety measures;
- counseling;
- education or retraining;
- written apology; and/or
- mediation.

Where a complaint is not substantiated, no corrective action will be taken against an individual who has made a complaint "in good faith". Good faith simply means that the individual believes, on reasonable grounds, that an act of harassment has taken place, and can provide evidence to support their belief that harassment has occurred.

## **Confidentiality**

All records of harassment, and subsequent investigations, are considered confidential. The Division will take all reasonable steps to protect the privacy of the individuals involved and to ensure that complainants and respondents are treated fairly and respectfully.

Furthermore, the Division will make every reasonable attempt to not disclose the identity of the complainant, or the identity of the respondent, or the circumstances of the complaint or information gathered during the course of an investigation of a complaint, except where disclosure is necessary for the purposes of investigating the complaint, taking corrective action in relation to the complaint, or where such disclosure is required by law.

## **Assistance**

Any staff member who has been harmed as a result of a violent act or incident in the workplace has the right to assistance. The Division recommends that any staff who has been harmed at the workplace seek consultation with a health care provider for treatment or referral for post-incident counselling as soon as possible. Where possible, the Division will provide assistance to staff through the Employee Assistance Program (EAP).

## **Fraudulent/Malicious Complaints**

It is important to realize that unfounded/frivolous allegations have serious consequences for all involved.

Making a knowingly false complaint or knowingly providing false information about a complaint is strictly prohibited and a violation of this Administrative Procedure. If it is determined by the Division that any staff has knowingly made a false complaint, they are subject to discipline, up to and including termination or legal action as the circumstances warrant.

If it is determined by the Division that a complaint made by a parent/guardian, volunteer or member of the general public was intentionally false, malicious, or vindictive, they may be subject to legal action as the circumstances warrant.

This does not apply to complaints made in good faith that are not substantiated.

## **Retaliation**

Any staff who retaliates or threatens to retaliate against any person who has complained of disrespectful behaviour, given evidence in an investigation, or been found guilty of disrespectful behaviour will be considered to have violated this Administrative Procedure and will be disciplined accordingly. Retaliation of any kind

will not be condoned or tolerated and may result in disciplinary action, up to and including termination of employment/contract.

### **Workplace Violence - Risk Assessment**

In addressing **workplace violence**, refer to Administrative Procedure 5175 – Workplace Violence Prevention.

1. When conducting a risk assessment the Division will take into consideration the staff in the workplace (age, gender, personalities, types of interactions etc.) and the workplace itself (staff working alone, lighting, workplace design, layout etc.). The Division will also look at the history of violence in the workplace including but not limited to number of violent incidents, type of jobs performed, triggers for previous incidents, etc.

2. Steps to Eliminate or Reduce the Risk of Violence

The Division will assess the risk for workplace violence annually or more often should the need arise. The following have been implemented by the Division in order to eliminate or reduce the risk of workplace violence:

- establishing safe work procedures and working alone procedures;
- training staff in Non-Violent Crisis Intervention (NVCI);
- establishing procedures for reporting, investigating, and documenting violent incidents;
- risk/threat assessment of staff, students and/or parents (when necessary);
- implementing mandatory workshops in Respectful Workplace, Workplace Safety and Health, and Respect in School;
- creating Safety and Health programs to inform and train all staff regarding the risk of workplace violence.

3. History of Violence

The Division will communicate all possible information relating to a person with a history of violence where:

- staff may reasonably be expected to come into contact with the person in the performance of their job duties;
- there is a potential risk of workplace violence as a result of interactions with the person with a history of violence

The Division will only disclose personal information that is deemed reasonably necessary to protect staff from harm.

Should a staff member have a court order, also known as a restraining order or "no-contact" order, against an individual, the staff member is encouraged to notify their Supervisor/Principal or Human Resources of the situation and provide a copy of the order. Any information received and disclosed will be held by the Division with the utmost confidentiality.

If the Division is aware that domestic violence is likely to expose a staff member or the workplace to violence, injury or risk in the workplace, the Division will take every reasonable precaution to prevent an incident of violence in the workplace.