

**Policy 9.04**

**Category: Welcoming, Caring, Respectful and Safe School**

**Workplace Discrimination, Violence, Harassment and Abuse**

**BACKGROUND**

The CAPE Charter Board is committed to the maintenance of a welcoming, caring, respectful and safe learning environment for all employee, volunteers, and contract operators. It also believes in zero tolerance for workplace discrimination, violence, harassment and abuse in any form. The purpose of this policy is:

1. to identify the behaviours that are unacceptable;
2. to establish a mechanism for receiving complaints, investigating incidents in an objective and timely manner;
3. to establish a procedure to deal with complaints; and
4. to provide supports for victims.

**POLICY STATEMENT**

5. The CAPE Charter Board and CAPE School will not tolerate any form of physical, sexual, emotional, verbal, psychological abuse nor any form of neglect, harassment, violence or discrimination.
6. In an effort to prevent any incidents of discrimination, violence, harassment and abuse, the CAPE Charter Board provides all staff with access to counselling and supports, professional development initiatives, and mediation support.
7. The principal is responsible for ensuring that all those to whom these procedures apply are aware of these procedures, understand these procedures, and have continuous access to them.

**PURPOSE**

The purpose of the policy is to ensure that:

8. individuals are aware of and understand that acts of violence or harassment are considered a serious offence for which necessary action will be imposed;
9. those subjected to acts of violence or harassment are encouraged to access any assistance they may require in order to pursue a complaint; and
10. individuals are advised of available recourse if they are subjected to, or become aware of situations involving violence or harassment.

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**DEFINITIONS**

11. **Physical Abuse** - defined but is not limited to the use of intentional force that can result in physical harm or injury to an individual. It can take the form of slapping, hitting, punching, shaking, pulling, throwing, biting, choking, strangling or the abusive use of restraints.
12. **Sexual Abuse** - defined as but is not limited to any unwanted touching, fondling, observations for sexual gratification, any penetration or attempted penetration with a penis, digital or object of the vagina or anus, verbal or written propositions or innuendos, exhibitionism or exploitation for profit including pornography.
13. **Emotional Abuse** - defined as but is not limited to a chronic attack on an individual's self-esteem. It can take the form of name calling, threatening, ridiculing, berating, intimidating, isolating, hazing, habitual scapegoating and blaming.
43. **Verbal Abuse** - defined as but is not limited to humiliating remarks, name calling, swearing at, taunting and continual put downs.
15. **Psychological Abuse** - defined as but is not limited to communication of an abusive nature, sarcasm, exploitive behaviour, intimidation, manipulation, and insensitivity to race, sexual preference or family dynamics.
16. **Neglect** - defined as but is not limited to any behaviour that leads to a failure to provide services which are necessary such as withdrawing basic necessities as forms of punishment, failing to assess and respond to changes in health status and refusing or withdrawing physical or emotional support.
17. **Harassment** - as defined by the Canadian Human Rights Commission, considers personal harassment to include:
  - 17.1 verbal abuse or threats;
  - 17.2 unwelcome remarks, jokes or innuendoes or taunting about a person's body, attire, age, marital status, ethnic or national origin, religion, etc.;
  - 17.3 displaying pornographic, racist or other offensive or derogatory pictures;
  - 17.4 practical jokes which cause awkwardness or embarrassment;
  - 17.5 unwelcome invitations or requests, whether indirect or explicit, or intimidation leering or other gestures;
  - 17.6 condescension or paternalism which undermines self-respect;
  - 17.7 unnecessary physical contact such as touching, patting or pinching, or punching
  - 17.8 physical assault.
18. **Sexual harassment** - is a violation of the *Individual Rights Protection Act*. Unwanted sexual advances, unwanted requests for sexual favours, and other unwanted verbal or physical conduct of a sexual nature constitute sexual harassment when:

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18.1 Submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment;

18.2 Submission to or rejection of such conduct by an individual affects that individual's employment.

Sexual harassment can include such things as pinching, patting, rubbing or leering, dirty jokes, pictures or pornographic materials, comments, suggestions, innuendoes, requests or demands of a sexual nature. The behaviour need not be intentional in order to be considered sexual harassment. It is offensive and in many cases intimidates others"

19. **Discrimination** - defined as differential treatment which is to the detriment of an individual or group of individuals.

### **LEGAL GROUNDS & APPLICATION**

20. This policy is grounded in the various Acts stated below.

21. This policy covers all employees, volunteers, visitors, parents, consultants, and independent contractors.

### **RESPONSIBILITIES**

22. The principal is responsible for making reasonable efforts to ensure that all individuals bound by this policy are aware of the policy, have the opportunity to read the policy, and to ask questions.

23. The Superintendent shall structure, or cause to be structured, procedures in support of this policy.

24. The principal is responsible for administering this policy.

25. All media communications are the responsibility of the Superintendent. All media requests are to be referred to the Superintendent.

### **GENERAL**

26. It is strongly recommended that any person who is subjected to workplace discrimination, violence or abuse bring the matter to the attention administration if informal resolution is sought.

27. Concerns or complaints shall be held in strict confidence between the complainant, respondent, the principal or designate, and any other individuals, as may be of necessity, involved in the resolution of the complaint.

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28. Information/investigation of these issues is kept separate and secure from the employee's professional file. The respondent is entitled to know the identity of the complainant and to receive a written copy of the complaint outlining the specifics of the allegation(s).
29. If the complaint made is determined to be intentionally false, malicious or vindictive disciplinary action will be taken and it may include letter of reprimand, dismissal, suspension without pay, or legal action.
30. Any attempt at retaliation by the respondent following the investigation and final disposition of the original complaint will be viewed as harassment and will be subject to the provisions of this policy.
31. In the event of workplace discrimination, violence or abuse an employee, volunteer, or parent may pursue either an informal resolution through the administration or formal recourse as outlined below through the Alberta Human Rights Commission, criminal charges, or civil litigation as appropriate.
32. The complainant should keep a record of incident(s) including dates, times, locations, possible witnesses, and description of incident(s), personal response and resulting outcome.

**INFORMAL RESOLUTION**

33. An individual may choose to initiate informal action(s) to resolve workplace discrimination, violence or abuse. Possible action could include:
  - 33.1 the complainant informs the respondent verbally or in writing that the actions are unwelcome and that these must stop;
  - 33.2 the complainant may request the involvement of the administrator or designate to provide informal intervention;
  - 33.3 the complainant must be prepared to share the nature and the specifics of the complaint with the principal or designate;
  - 33.4 the principal or designate will consult with the respondent within 10 working days of the complaint or within a shorter period of time if the nature of the complaint warrants immediate action.
  - 33.5 subsequent to consultation and further exploration, the principal or designate will make a recommendation to the complainant, respondent and Superintendent within 30 working days.

**FORMAL RESOLUTION**

34. When an allegation of workplace discrimination, violence or abuse is brought forward, the principal or designate will adhere to the following procedure:

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- 34.1 the principal or designate will inform the respondent that a complaint has been received. Any staff member receiving a complaint must inform the principal immediately;
- 34.2 secure a statement outlining the allegation(s) from the person bringing forth the allegation;
- 34.3 secure a statement from the respondent;
- 34.4 decide whether or not to suspend the respondent until the matter is resolved;
- 34.5 if the respondent is to be suspended, the principal or designate will inform the Superintendent and Board Chair and consult with the Superintendent and the Board Chair, and will suspend with pay or without pay the respondent until the matter is resolved;
- 34.6 secure statements from any and all possible witnesses;
- 34.7 the principal or designate will inform the complainant and the respondent of the result of the investigation and of the resolution of the complaint;
- 34.8 all processes will be clearly and accurately documented and made available to any civil or criminal proceedings.
- 35. The principal or designate shall forward a written report with the findings of the investigation and the recommendations to the Superintendent within thirty (30) working days of the-receiving the complaint.
- 36. Based on recommendations and evidence in the report, the Superintendent shall take action, which is consistent with Board policies and practice including Board policies and practice relating to employee discipline.
- 37. Possible action will be:
  - counseling
  - mediation
  - written reprimand that becomes part of the employee's file
  - a written apology
  - suspension
  - dismissal
- 38. The Superintendent will inform the complainant and the respondent of the outcome of the complaint, as permitted under the Freedom of Information and Protection of Privacy Act. The information provided to the complainant will be limited to whether or not workplace discrimination, violence or abuse has occurred within the meaning of this Policy, and whether or not disciplinary action has been imposed as a result. The specific nature of any disciplinary action will not be disclosed to the complainant.
- 39. The Superintendent shall assure that appropriate support services are set in place for the employee where the allegations of workplace abuse are dismissed.

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40. If the Superintendent is identified as the respondent, the entire matter shall be directed to the Board.

#### **APPEALS**

41. Employees who are not satisfied with action taken with respect to enforcement of this regulation, are entitled to pursue the matter in the manner set forth as follows:
- 41.1 an appeal may be made in writing to the Superintendent within ten (10) working days of the decision;
  - 41.2 the Superintendent will respond within thirty (30) working days;
  - 41.3 Either party has the right to seek civil or criminal redress through the courts or to file a complaint with the Alberta Human Rights Commission. The parties have the right to pursue the matter through the Alberta Human Rights Commission.

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#### **References:**

*Education Act*

*Human Rights Act*

*Criminal Code of Canada*

*Occupational Health and Safety Act*

*Individual's Rights Protection Act*

*Human Rights, Citizenship and Multiculturalism Act*

*Freedom of Information and Protection of Privacy Act*

*Teachers' Code of Professional Conduct*

*CAPE Code of Conduct for Certificated Staff*

*CAPE Code of Conduct for Non-Certificated Staff*

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