



Governance and Policy Committee Agenda

GPC:005A

Wednesday, June 2, 2021

4:30 p.m.

Electronic Meeting

Trustee Members:

James Li (Chair), Michelle Aarts, Stephanie Donaldson, Harpreet Gill, Yalini Rajakulasingam, Anu Sriskandarajah

	Pages
1. Call to Order and Acknowledgement of Traditional Lands	
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8. Adjournment



P031, Human Rights Policy Review: Phase 5

To: Governance and Policy Committee

Date: 2 June, 2021

Report No.: 06-21-4105

Strategic Directions

- Create a Culture for Student and Staff Well-Being
- Transform Student Learning
- Provide Equity of Access to Learning Opportunities for All Students
- Allocate Human and Financial Resources Strategically to Support Student Needs
- Build Strong Relationships and Partnerships Within School Communities to Support Student Learning and Well-Being

Recommendation

It is recommended that the revised Human Rights Policy (P031), as presented in this report, be approved.

Context

The current Human Rights Policy (P031) ("Policy") was adopted by the Board of Trustees on May 3, 2000 and last updated on May 19, 2004. The Policy has been reviewed in accordance with the Policy Review Work Plan approved by the Governance and Policy Committee on June 7, 2017. On April 29, 2020, the Governance and Policy Committee received a status update on the review of the Policy. The status update outlined the HRO's expanded mandate and the Board's strategic priorities in relation to the Human Rights Policy (P031).

The proposed revised Policy is included at Appendix A (with tracked changes version at Appendix B), and a summary of the proposed changes are included at Appendix C.

The current proposed content revisions to the Policy are based on the Committee's directions, the Policy Review Work Plan (Appendix D), a critical equity review of

operational requirements and current practices, as well as a scan of related policies in other jurisdictions (Appendix D).

Revisions to the Policy are also based on feedback received during policy consultations including from students, staff and community members, TDSB's Urban Indigenous Education Centre, federations, unions, staff associations and the Board's Community Advisory Committees including direct engagement with the Special Education Advisory Committee and Parent Involvement Advisory Committee. Public consultations were conducted from February 17, 2021 until May 11, 2021.

The revised Policy actions TDSB's commitment to meeting its obligation under the Ontario *Human Rights Code* by providing schools, workplaces, and other TDSB environments that respect human rights. The Policy seeks to protect, promote and advance the human rights of all TDSB members to learn, function and work in an equitable, accessible, respectful and inclusive environments free of discrimination and harassment on the basis of the protected grounds of discrimination specified in the Policy and protected under the Ontario *Human Rights Code*. The Policy also ensures that the TDSB meets its positive human rights obligations, including to proactively identify, address, and prevent all forms of discrimination, including individual and systemic discrimination.

The revised Human Rights Policy (P031) is being presented to the Committee for consideration and approval.

Action Plan and Associated Timeline

Subject to the Governance and Policy Committee's directions, the revised Policy will be presented to the Board of Trustees for consideration and final approval on June 30, 2021. Staff will initiate the review of existing and, as required, development of new operational procedures to support implementation of the revised Policy.

Resource Implications

No additional resources will be required for the implementation of the revised Policy at this time.

Communications Considerations

Following Board approval, the Policy will be communicated to the system and posted on the Board's public website.

Board Policy and Procedure Reference(s)

- Acceptable Use of Information Technology Resources (P088)
- Accessibility (P069)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Dealing with Abuse and Neglect of Students (P045)
- Equity (P037)
- Gender-Based Violence (P071)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Respectful Learning and Working Environment (P073)
- Workplace Harassment Prevention for Non-Human-Rights-Code Harassment (P034)
- Workplace Violence Prevention (P072)
- Abuse and Neglect of Students (PR560)
- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Code of On-line Conduct (PR571)
- Complaint Protocol for the Board Member of Conduct (PR708)
- E-mail Usage (PR572)
- Police-School Board Protocol (PR698)
- Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools (PR728)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights Procedure (PR515) [Note: currently under review]

Appendices

- Appendix A: Human Rights Policy (P031) – Revised, Clean
- Appendix B: Human Rights Policy (P031) – Revised, Changes Tracked
- Appendix C: Summary of changes to the revised Human Rights Policy (P031)
- Appendix D: Policy Review Workplan and Scan

From

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Toronto District School Board

Policy P031

Title: **HUMAN RIGHTS**

Adopted: May 3, 2000

Effectuated: May 3, 2000

Revised: May 19, 2004; [New Date]

Reviewed: May 19, 2004 [date when the policy was reviewed]

Authorization: Board of Trustees

1.0 RATIONALE

The Toronto District School Board (“TDSB”) acknowledges and seeks to dismantle the Board’s colonial structures and practices and recognizes the devastating and ongoing impacts of colonization on First Nations, Métis, and Inuit people.

It is recognized and acknowledged that many members of the TDSB community continue to experience exclusion and marginalization, including racism, anti-Indigenous racism, anti-Black racism, ableism, sexism, transphobia & cissexism (discrimination and prejudice on the basis of gender identity), homophobia, and other forms of marginalization and prejudice.

TDSB recognizes that sustained measures, both proactive and reactive, are required to eradicate discrimination and to ensure that all members of the TDSB community are included, welcomed, and feel valued in all TDSB environments.

The Human Rights Policy (the “Policy”) affirms and supports the TDSB’s commitment to defending, upholding and promoting human rights in all learning and working environments for the benefit of all members of the TDSB community. This Policy supports the implementation of TDSB obligations under the Ontario *Human Rights Code*, the *Education Act*, the *Canadian Charter of Rights and Freedoms*, and the *Occupational Health and Safety Act*.

2.0 OBJECTIVE

The objectives of the Policy are:

- To protect, promote and advance the human rights of all TDSB members (see definition below) to learn, function and work in an equitable, accessible, respectful and inclusive environment free of discrimination and harassment on the basis of the protected grounds of discrimination specified in this Policy and protected under the Ontario *Human Rights Code*.
- To ensure TDSB meets its positive human rights obligations, including to proactively identify, address, and prevent all forms of discrimination, including individual and systemic discrimination.

3.0 DEFINITIONS

For the purposes of this Policy:

Accommodation – see below under “Duty to Accommodate”.

Allegation means an unproven claim or assertion that someone has violated this Policy.

Board means Toronto District School Board, which is also referred to as “TDSB.”

Code means the Ontario *Human Rights Code*.

Condonation means the practice – particularly on the part of a person in a position of authority – of overlooking, downplaying, accepting and/or failing to respond to discriminatory behaviour.

Directing Minds means employees with supervisory authority who function, or are seen to function, as representatives of an organization. Persons who are not identified as supervisors *per se* may be directing minds if they have supervisory authority or have significant responsibility for the guidance of employees.

Discrimination means adverse treatment in a TDSB environment that is unfair based on one or more protected grounds; or treatment that results in disadvantage, violates dignity, or perpetuates prejudice against a person or group in a TDSB environment in relation to one or more protected grounds. Discrimination can be direct or indirect, individual or systemic (see definition below), and need not be intended. It also includes hate activity in TDSB environments.

Intersectional discrimination is a form of discrimination that occurs based on two or more *Code* grounds that produce a unique and distinct form and experience of discrimination that cannot be reduced to any single *Code* ground. The concept of intersectional discrimination recognizes that people may have multiple

overlapping identities, and that marginalization, exclusion and discrimination may be further exacerbated because of how these identities interact or “intersect.”

Discrimination does not include the existence of measures designed to relieve disadvantage or systemic discrimination, or to assist persons or groups who experience disadvantage to achieve or attempt to achieve equal opportunity.

Duty to Accommodate means the legal obligation to make adjustments, provide support, or make exceptions in order to avoid discrimination on the basis of a protected ground so as to ensure fair and equitable access, treatment, and inclusion, and for individuals to be able to participate equally and perform to the best of their abilities in the learning environment, workplace, or other TDSB environment.

- The duty to accommodate may require making adjustments to or exceptions to policies, procedures, programs, guidelines, practices, physical settings, requirements, or criteria in keeping with the principle of the primacy of the *Code*.
- If a person in a position of authority has information or has made observations that suggests there may be a need for accommodation, that person is under a duty to make reasonable inquiries into whether an accommodation may be required.
- When there is a duty to accommodate, accommodation is required up to the point of undue hardship, which is a very high threshold.
- The procedural duty to accommodate requires that the accommodation process be transparent, collaborative and respectful. Requests for accommodation cannot be ignored.

Employee includes any person who is an “employee” under the *Code*. It also includes any person who is a “worker” under the *Occupational Health and Safety Act* including, but not limited to: full-time, part-time, regular, temporary, and probationary employees; co-op students; and contract employees.

Harassment means a course of vexatious comment or conduct in a TDSB environment, based on a protected ground, which is known, or ought reasonably to be known, to be unwelcome, and includes sexual harassment. Harassment is a form of discrimination. It is usually the result of a series of incidents (“a course” of comment or conduct) but may also result from one very serious incident. (Note: non-*Code* workplace harassment, which is not based on a protected ground, is covered under the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy [P034].)

Hate Activity means a hate crime or a hate incident.

Hate Incident means non-criminal conduct that is motivated in whole or in part by hatred against an individual or group on the basis of a protected ground. A hate incident can encompass situations in which the conduct is directed against people associated with individuals or groups identified with the protected grounds. The conduct can be verbal, nonverbal or written, and may manifest itself in the form of slurs, insults, harassment, abusive gestures, taunting, display of offensive materials or hate symbols, or other acts which may intimidate, degrade and/or marginalize the targeted individual or group.

Hate Crime means a criminal offence that is committed against a person or property, and which is motivated in whole or in part by hatred or bias based on race, national or ethnic origin, language, colour, creed, religion, sex, age, mental or physical disability, sexual orientation, gender identity, or gender expression. This includes, but is not limited to, hate-motivated violence, incitement to hate-motivated violence, and/or the display of symbols or other representations identified with groups promoting hate and violence. It also includes such crimes committed against a person who is associated, or perceived to be associated, with individuals or groups identified with one of the aforementioned *Code*-protected grounds.

HRO means the Human Rights Office.

Instance includes an incident, event, ongoing situation, circumstance, environment, practice, policy, procedure, rule, directive, etc. that gives rise to a breach of this Policy. The term “potential instance” refers to knowledge, including based on rumour, report, or reasonable suspicion, that warrants investigation to ascertain whether a violation of this Policy has occurred.

Learning Environment means any land, premises, location, event or thing at, upon, or in which a TDSB student or TDSB member (see definition below) learns or engages in activities connected to the learning environment (e.g. parent engagement/parent council activity etc.). This includes virtual/online environments. Conduct that has consequences for the learning environment, regardless of where it occurs, may be considered to have occurred in the learning environment.

Manager means a supervisor or a directing mind as defined in this Policy.

OHSA means the *Occupational Health and Safety Act*. The *OHSA* prohibits all workplace harassment even if not on the basis of a protected ground. This Policy implements *OHSA* requirements with regard to workplace harassment on the basis of a protected ground. The Workplace Harassment Prevention for Non—Human-Rights-Code Harassment Policy (P034) implements the *OHSA* requirements with regard to workplace harassment that is not based on a protected ground.

Parent means a parent, guardian or any other caregiver legally recognized as acting in place of the parent.

Person in a Position of Authority means a manager, or a person with authority over students (eg. teachers, educational assistants, school-based safety monitors, child and youth workers, designated early childhood educators, lunchtime supervisors, bus drivers, office support staff, etc.).

Poisoned Environment means a TDSB environment that is oppressive, negative, hostile, unwelcoming, or non-inclusive as a result of vexatious behavior that is based on a protected ground and that is known, or ought reasonably to be known, to be unwelcome. The vexatious behaviour or conduct does not need to be directed toward any person or group in particular. A poisoned environment may result from a series of incidents or a single serious incident, condonation of such behavior, and/or the failure to adequately remedy and restore the environment following the incident(s).

Positive Human Rights Obligations, also called “positive obligations”, mean organizational duties which entail taking active steps to safeguard and advance human rights. Examples of positive obligations include: conducting training; monitoring human rights compliance through data collection, analysis and reporting; and other affirmative measures aimed at preventing human rights violations and fostering a culture of human rights, even in the absence of complaints.

Protected Ground means the grounds upon which discrimination is prohibited under the Ontario *Human Rights Code* and this Policy. The grounds are:

- Age (an age that is 18 years or more)
- Ancestry
- Citizenship
- Colour
- Creed (includes but is not limited to religion and Indigenous spirituality)
- Disability (includes mental, physical, perceived)
- Ethnic origin
- Family status (includes child, adoptive, elder relationships)
- Gender expression
- Gender identity
- Marital status (including single, separated, widowed, common law and covers same and opposite sex relationships)
- Place of origin
- Race
- Sex (includes pregnancy and breastfeeding)
- Sexual orientation
- Socio-economic status*
- Record of offences (in employment only)
- Association with a person identified by a ground listed above

*Note: Socio-economic status is a protected ground under this Policy, but not under the *Code*.

Treatment that occurs as a result of perceived membership in a protected group is also protected.

RBH Portal means the Racism, Bias and Hate online reporting portal, a system which enables detailed incident reporting on racism and hate incidents involving or impacting students in schools, as governed by the procedure for Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools (PR728). It also provides a record of responses to such incidents, in the form of action plans and communication strategies, while allowing for the identification of any potential lessons learned, good/best practices, future preventative measures required, and any other systemic considerations.

Reprisal means adverse action or threat of adverse action against an individual that is in retaliation:

- (a) for, in good faith, raising concerns or claiming or enforcing a right under this Policy or associated procedures or supporting or assisting someone to do so;
- (b) for participating in a process to address a matter under this Policy or associated procedures; or
- (c) on the basis of a belief that the individual has engaged in (a) or (b).

Adverse action in the above definition could include, for example:

- disciplining, suspending, dismissing, or expelling;
- intimidating or coercing someone not to report a situation;
- changing an employee's position, shift, work location, work assignments or the nature of their work;
- moving a student to a different class;
- unfair grading;
- reducing or changing an employee's hours;
- denying a promotion; or
- harassing or discriminating.

Sexual Harassment means:

- (a) engaging in a course of vexatious comment or conduct because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome;
- (b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance; or
- (c) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the

solicitation or advance is unwelcome. This creates a higher standard for those in positions of power because the solicitation or advance does not have to be “a course of conduct” or “egregious.” Where the unwanted sexual solicitation or advance is from a person not in a position of authority, the usual test of “course of conduct” or “single egregious incident” applies.

Sexual Harassment also includes cyber sexual harassment.

Student means a person who is enrolled at TDSB and includes an adult.

Supervisor means an employee who exercises managerial/supervisory authority in relation to other employees or volunteers.

Systemic Discrimination means patterns of behaviour, policies and/or practices that are part of administrative structures or informal culture within TDSB, and that create or perpetuate disadvantage for individuals or groups on the basis of a protected ground.

TDSB means Toronto District School Board, which is also referred to as the “Board.”

TDSB Environment includes a TDSB learning or working environment, as defined in this Policy, and includes:

- TDSB owned or operated places, Board premises, offices, and facilities (including eating, lounge/changing areas and vehicles used for TDSB purposes or on TDSB property);
- schools and school-related activities;
- Board-related functions, activities, or events;
- online environments;
- activities, including electronic messages and postings on electronic and social media, which have significant negative consequences for the TDSB environment; and
- all applicable social areas (eg. employment; goods, services, and facilities; and contracts) protected by the *Code*.

TDSB Member/Member of the TDSB Community means, but is not limited to, students, parents/guardians, employees, job applicants, trustees, committee members, school/parent council members, permit holders (including organizations who use Board facilities), vendors, service providers, contractors, volunteers, visitors, customers of the Board, bargaining agents and associations, and all other persons who are invited to, work in, or are permitted to attend or participate in TDSB environments.

Vexatious means comment or conduct that is inappropriate or unnecessary and that a TDSB member experiences as offensive, embarrassing, humiliating, distressing or demeaning.

Workplace/Working Environment means any land, premises, location or thing at, upon, in or near which an employee works, in keeping with the definition in the OHSA. For the purpose of this Policy, it also includes any place where individuals perform work or work-related duties or functions. Schools and school-related activities, such as extra-curricular activities and excursions comprise the workplace, as do Board offices and facilities (including eating, lounge or changing areas, and vehicles used for work purposes or on work property). Conferences, workshops, training sessions and staff functions (for example, staff parties and retirement celebrations) and job competitions also fall within the scope of this Policy. Regardless of where it occurs, conduct that has work-related consequences may be considered to have occurred in the workplace. Phone calls, electronic messages, and postings on electronic and social media may form part of the workplace.

4.0 RESPONSIBILITY

The Director of Education holds primary responsibility for implementation of this Policy.

Within the Director's Office, the responsibility for coordination and day to day management of the Policy is assigned to the Executive Superintendent, Human Rights and Indigenous Education.

5.0 APPLICATION AND SCOPE

This Policy applies to all students, employees, and other members of the TDSB community in TDSB environments.

The Policy prohibits discrimination and harassment on the basis of the protected grounds and covers all *Code* protections applicable to the TDSB environment. It also prohibits hate activity.

Harassment that is not related to a protected ground does not fall under this Policy but may fall under other Board policies such as the Code of Conduct (P044). Workplace harassment that is not related to a protected ground falls under the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034).

6.0 POLICY

6.1. Policy Statement

6.1.1. The TDSB is committed to safeguarding, advancing and proactively promoting the right of every student, employee and TDSB member to learn, function and work in an equitable, accessible, respectful and inclusive environment free of discrimination and harassment.

6.1.2. All forms of discrimination and harassment based on a protected ground are strictly prohibited in TDSB environments, in fulfillment of legal obligations under the Ontario *Human Rights Code*, the *Canadian Charter of Rights and Freedoms*, the *OHSA* and in accordance with international human rights covenants, conventions, treaties and declarations to which Canada is a signatory, including the United Nations Declaration on the Rights of Indigenous Peoples.

6.1.3. The Board will not tolerate, condone or ignore discrimination, harassment or hate activity in its schools, facilities, workplaces or other TDSB environments.

6.1.4. The Board will take every reasonable step to:

- Prevent discrimination, harassment and hate activity and to cultivate and sustain equitable, accessible, respectful and inclusive learning, working, and other TDSB environments free of discrimination and harassment.
- Treat allegations of discrimination or harassment seriously, and appropriately address them in a timely, fair, proportionate manner, in accordance with this Policy, the applicable procedures and applicable law, with the aim of preserving the dignity, respect and rights of all parties.
- Promote awareness of human rights and responsibilities.
- Restore learning, working, and other TDSB environments affected by discrimination, harassment or hate.
- Fulfill its duty to accommodate persons based on a protected ground, up to the point of undue hardship, in accordance with its legal obligations, including under the *Code*.

6.2. Principles

In fulfilling its positive human rights obligations and commitments to protect and advance human rights, TDSB will:

- (a) Recognize and give life to the primacy of the *Human Rights Code* over policy, procedure, directives, rules, practices, contractual agreements, and over other legislation as specified in s. 47(2) of the *Code*.
- (b) Function in a proactive, systemic, and informed manner (based on evidence when available) so that the Board may take necessary steps to prevent and avert violations of this Policy and be actively alert to

emerging issues, systemic trends and conditions that may potentially contribute to discriminatory outcomes, rather than only waiting for breaches of human rights to occur or become apparent before being addressed.

- (c) Recognize that fostering and sustaining an equitable, accessible, respectful and inclusive environment free of discrimination and harassment is integral to the fulfillment of all TDSB roles and functions, and is a shared responsibility requiring the cooperation of all TDSB members.
- (d) Cultivate public trust and accountability, including being transparent with the communities we serve, through public reporting and engagement around human rights issues and outcomes at the Board, and other appropriate measures.
- (e) Interpret and apply this Policy harmoniously with the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples, in recognition of Indigenous sovereignty, and in keeping with the principles set out in [What We Have Learned: Principles of Truth and Reconciliation](#) by the Truth and Reconciliation Commission of Canada.
- (f) Interpret and apply this Policy harmoniously with the spirit and intent of the Board's Equity Policy (P037), and the Board's commitments to principles of anti-racism and anti-oppression, and will not interpret or apply this Policy in a manner that undermines the values or rights reflected therein.

6.3. Policy Violations

Engaging in discrimination, harassment or hate activity of any kind is a violation of this Policy. Behaviours and practices in TDSB environments that are contrary to this Policy include, but are not limited to, the following examples:

- (a) discrimination;
- (b) harassment including sexual harassment;
- (c) creating or contributing to a poisoned environment;
- (d) hate activity;

- (e) failure of a person in a position of authority to respond appropriately and expeditiously to allegations, instances, potential instances or complaints of discrimination, harassment, poisoned environment, or reprisal;
- (f) failure of management to identify, address, or remove systemic discrimination;
- (g) interference with an investigation under this Policy, including but not limited to intimidating any person involved in the investigation, or influencing a person to give false or misleading information;
- (h) reprisal;
- (i) bad faith allegations, complaints, or accusations (e.g., submitting a complaint knowing there has been no violation of this Policy);
- (j) purposefully or recklessly providing false or misleading statements or information to an investigator investigating a matter under this Policy;
- (k) failure to adhere to the confidentiality provisions set out in the procedures made pursuant to this Policy; and
- (l) failure to fulfill the procedural or substantive duty to accommodate under the *Code*, including failure to offer effective or appropriate accommodation up to the point of undue hardship.

6.4. Consequences for Policy Violations

Action may be taken with any TDSB member who fails to abide by the requirements set out in this Policy and associated procedures, including but not limited to performance management, remedial action or discipline up to and including termination of employment, suspension or expulsion from educational services, or removal from or denial of access to TDSB institutional spaces and facilities, in accordance with applicable law, the remedial purpose of the *Code*, and where appropriate, principles of progressive discipline.

Note: Remedial action for persons who are not employees is taken after consultation with the Legal Services Department and/or Safe Schools Department and/or applicable superintendent, as appropriate. This may result in, but is not limited to, denial of access to Board premises or issuance of trespass notices. Remedial or disciplinary action for employees must be done in consultation with Employee Services, and a disciplinary review committee as required in accordance with procedure made pursuant to this Policy.

6.5. Human Rights Organizational Change Program

6.5.1. In keeping with TDSB's positive obligations, the TDSB will create and maintain a systemically focused and proactive Human Rights Organizational Change Program that will aim to prevent discrimination and harassment and enable, support and advance the creation and preservation of a transformational culture of human rights at the TDSB in which all members of the TDSB community:

- equitably flourish with dignity and respect; and
- achieve equitable outcomes in TDSB learning and working environments, free from discrimination and harassment.

6.5.2. The program will include, but not necessarily be limited to, the following, as further specified in section 6.5.3 to 6.5.7 below:

- (a) A process to identify, remove and prevent potential systemic forms of discrimination, whether by virtue of acts of commission or omission, in TDSB policies, procedures or practices;
- (b) A performance management framework that integrates and embeds accountability for human rights across the organization, including in hiring and promotion decisions;
- (c) Data collection, analysis and reporting to measure and evaluate TDSB's progress in protecting and advancing human rights, and to inform appropriate remedial and preventive systemic interventions; and
- (d) Information, learning and awareness to ensure TDSB members are aware of their rights and responsibilities under this Policy and have the necessary knowledge, skills and competencies to exercise those rights and to fulfill those responsibilities.

6.5.3. Review of Policies, Procedures and Practices

- (a) The TDSB will review policies, procedures and practices, and revise or develop these whenever necessary to ensure compliance with this Policy.
- (b) The HRO will develop and implement a Human Rights Impact Assessment (HRIA) framework to be used in identifying, assessing, mitigating, remedying or preventing systemic discrimination, including as this manifests in policies, practices, or procedures, or the lack thereof.
- (c) The HRO may initiate a Human Rights Impact Assessment of a TDSB policy, practice or procedure, or lack thereof, where it believes there may be a significant discriminatory effect. In conducting the HRIA, the HRO will consider the potential extent and depth of adverse impacts and

outcomes on protected grounds, and offer recommendations to eliminate and prevent these.

- (d) TDSB members must comply with HRO requests for information for the purposes of Human Rights Impact Assessments (unless deemed legally privileged and confidential). The HRIA process may include inviting public input from affected members of the community.
- (e) The results of Human Rights Impact Assessments will be posted publicly on a Board website or referenced in the HRO's Annual Human Rights Report (see section 6.5.5.3 below).

6.5.4. Performance Management and Accountability

The following measures will be developed and implemented:

- (a) The TDSB will ensure that human rights competencies are evaluated as a standalone competency in the context of performance appraisals and in hiring and promotion decisions for system leaders, administrators, teachers, and other employees who undergo applicable performance appraisals. This competency will have increasing degrees of weight and consideration for managers, according to their power and supervisory authority, owing to their additional corporate responsibilities to protect and advance human rights in areas under their supervision. For positions involving direct responsibility for or engagement with students, it will be a primary and necessary competency and a required qualification.
- (b) Violations of human rights will be tracked and considered in employment hiring and promotion decisions.
- (c) The TDSB will incentivize system leaders to advance human rights organizational change, including by recognizing and rewarding excellence in safeguarding and promoting human rights.

6.5.5. Data Collection, Analysis and Reporting

6.5.5.1. Recognizing the value of quantitative and qualitative data for evaluating human rights compliance and progress, identifying human rights issues and trends, and informing appropriate evidence-based, remedial or preventative interventions, TDSB Senior Team members will, at least annually, analyze and review the results of relevant existing human rights data including as collected through the RBH Portal, HRO inquiry and complaint process, the Student and Parent Census, the Staff Census & Well-Being Survey, and school climate surveys.

6.5.5.2. The HRO will consider and, where appropriate, develop in collaboration with other Board departments, additional human rights data collection tools and indicators to gather the perspectives/experiences of students, parents, employees and other TDSB members.

6.5.5.3. The HRO will produce an Annual Human Rights Report for the Board of Trustees including the above de-identified data findings. The report will also include disaggregated data findings, based on the protected grounds, in order to identify inequalities and areas where concerted effort is needed to close human rights gaps. This Report will be released publicly including by posting it on a TDSB website.

6.5.6. Information, Learning and Awareness

6.5.6.1 The Board will develop and implement measures to build TDSB members' capacity to promote an equitable, accessible, respectful and inclusive environment free of discrimination and harassment including by:

- (a) Making accessible, user-friendly information and instruction available to ensure TDSB members are aware of their human rights and responsibilities, and how to fulfill them.
- (b) Requiring all employees and newly promoted managers to receive information and training on this Policy and associated procedures within their first three months.
- (c) Requiring managers (including executives) to participate in education and/or training on this Policy and associated procedures at least every five (5) years, or whenever there are significant changes to this Policy or associated procedures.
- (d) Requiring all TDSB employees to participate in education and/or training on this Policy and associated procedures at least every five (5) years.
- (e) Ensuring that age-appropriate, accessible, user-friendly information, resources, and education about student human rights and responsibilities, and associated redress processes are provided to students on an ongoing basis, and as appropriate in response to specific incidents.
- (f) Designating a staff member or staff members, who do not report to the school administration, as Student Human Rights Advocate(s) to advise, support and help students whose human rights may have been violated at TDSB.

- (g) Ensuring that accessible, user-friendly information and resources about student human rights (including the duty to accommodate as it relates to special education) in TDSB and related policies, procedures and practices are provided to all parents at the start of each school year.

6.5.6.2 The Urban Indigenous Education Centre, guided by the TDSB Council of Elders, will designate a staff member or staff members as Indigenous Human Rights Advocate(s) to support the human rights of Indigenous, First Nations, Métis and Inuit members of the TDSB community. This position will be housed within the Urban Indigenous Education Centre and will report to the Systems Superintendent of Indigenous Education or a designate.

6.5.7. Review of Human Rights Organizational Change Program

The Board will review the Human Rights Organizational Change Program at least every five (5) years, or as needed, and consult with affected TDSB community members on any changes, as part of the review process.

6.6. Roles and Responsibilities

6.6.1. All members of the TDSB community

- (a) All members of the TDSB community are responsible for adhering to this Policy and the associated procedures, and respecting the human rights and dignity of each person within their respective sphere of interaction and influence, playing their part in the creation and maintenance of TDSB environments that are free of discrimination and harassment.
- (b) All members of the TDSB community must cooperate fully in appropriate attempts under this Policy or associated procedures to address a situation or complaint, including an investigation, to the extent of their capacity (e.g. considering age, cognitive impairment etc.) and to the extent permitted by law.

6.6.2. Employees

- (a) All employees, including those who witness incidents, should report – and in the case of situations affecting students, must report – discrimination, harassment, hate activity, and other violations of this Policy to the appropriate person (typically one's supervisor or the next level supervisor not involved or implicated) in accordance with PR515 and PR728 and any other procedure made pursuant to this Policy.
- (b) Employees should be aware of and sensitive to issues of discrimination and harassment, and should support individuals who are, or have been, targets of discrimination and harassment.

6.6.3. Director

The Director of Education, who holds primary responsibility for implementation of this Policy, will safeguard and promote an equitable, accessible, respectful and inclusive environment free of discrimination and harassment including by:

- (a) Regularly assessing the effectiveness of measures designed to protect and advance human rights within the Board, and, when needed, revising such measures, or replacing them with new ones, in consultation with the Human Rights Office.
- (b) Taking necessary proactive steps to identify, address, and prevent systemic discrimination, and advance human rights organizational change, including by ensuring effective implementation of related program measures, as identified in section 6.5.
- (c) Ensuring the implementation of an appropriate process to identify, handle, investigate, and remedy instances, potential instances, allegations, and complaints of discrimination, harassment, poisoned environment and reprisal in a manner appropriate in the circumstances, through this Policy and the associated procedures.
- (d) Holding all TDSB members accountable for complying with this Policy and associated procedures, particularly system leaders who are directing minds of the Board.
- (e) Ensuring that the Human Rights Office is independent and impartial as it carries out its mandate, and taking reasonable measures to ensure it is seen as such by all members of the TDSB community.

- (f) Designating and preserving adequate resources for ensuring the full and proper implementation of this Policy and the associated procedures.

6.6.4. Persons in Positions of Authority

6.6.4.1 Persons in positions of authority are responsible for not only their own conduct, but also for addressing the conduct of those under their supervision. To prevent and address instances, potential instances, allegations, and complaints of discrimination, harassment, poisoned environment, hate activity, and reprisal, persons in positions of authority will:

- (a) Lead by example by not engaging in, tolerating or condoning discrimination or harassment or any other violations of this Policy.
- (b) Make all reasonable efforts to promote an environment that encourages reporting violations of this Policy.
- (c) Make all reasonable efforts to protect those under their supervision from all forms of discrimination and harassment by maintaining equitable, accessible, respectful and inclusive learning and working environments that are free of discrimination, harassment, poisoned environments, and reprisal.
- (d) Where appropriate to their position of authority, educate or provide educational opportunities for TDSB members to ensure they are aware that discrimination and harassment will not be tolerated, that they understand their rights and responsibilities as they relate to this Policy and the associated procedures, and that they understand how to report violations.
- (e) Take all instances, potential instances, and complaints of discrimination and harassment, or any other violations of this Policy, seriously, including by promptly:
 - (i) intervening when it occurs or is suspected to have occurred; and
 - (ii) making inquiries or consulting with a direct supervisor, the HRO, or other department of the Board, as appropriate, to assist in effectively managing allegations, instances, potential instances, and complaints.

6.6.4.2 Managers

In addition to the above, managers will:

- (a) Be knowledgeable of this Policy and the associated procedures.
- (b) Post this Policy and associated procedures in a conspicuous location in workplaces under their supervision where it would be likely to come to employees' attention, and make the Policy and procedures available (electronically or by hard copy).
- (c) Promptly impartially investigate allegations, instances, potential instances, and complaints of discrimination, harassment, and any other violations of this Policy, in accordance with this Policy, associated procedures, the *Code*, and where applicable the *OHS*A;
- (d) Take remedial and/or disciplinary action with any person found to have engaged in conduct in violation of this Policy.

6.6.4.3 Principals

In addition to the above, principals will:

- (a) Review this Policy and the associated procedures with school staff at the start of each school year; and
- (b) Ensure that students are provided information, resources and education specified in 6.5.6.1(e) above.

6.6.5. Human Rights Office

6.6.5.1. As TDSB's centre of human rights expertise, the HRO will:

- (a) Advise members of the TDSB community about their human rights and obligations, including by producing and disseminating user-friendly materials for display in schools, workplaces, and other TDSB environments;
- (b) Impartially and fairly investigate, resolve, mediate and address human rights complaints and incidents, including in the areas of employment and education; and
- (c) Proactively and systemically advance human rights organizational change including through:

- (i) identification of systemic human rights issues;
- (ii) professional development, education, and capacity building;
- (iii) policy and procedure review and development;
- (iv) outreach and engagement with school communities; and
- (v) research, data collection, analysis, reporting and evaluation of TDSB's performance in protecting and advancing human rights.

6.6.5.2. The HRO will function as the facilitative lead for the development, coordination and implementation of the Board-approved Human Rights Organizational Change program, pursuant to section 6.5., in collaboration with other Board Departments (e.g. Equity, Indigenous Education, Employee Services, Research, Special Education and Inclusion, Disability Management Office, Accessibility Office, Employment Equity, etc.).

6.6.5.3. The HRO may self-initiate inquiries, environmental scans or investigations where it reasonably believes that rights under this Policy may have been violated, including in the absence of a complaint.

6.7. The Duty to Accommodate

Members of the TDSB community should refer to the HRO website for guidelines or procedures connected to the duty to accommodate.

6.8. Addressing Policy Violations

Members of the TDSB community should refer to the procedures created pursuant to this Policy for information on addressing instances, potential instances, allegations, and complaints of violations of this Policy.

7.0 SPECIFIC DIRECTIVES

The Director has authority to issue operational procedures to implement this Policy.

8.0 EVALUATION

The Human Rights Policy will be reviewed as required, and at least annually, in accordance with the *Occupational Health and Safety Act*.

The HRO will implement a mechanism to receive feedback on this Policy, associated procedures, and human rights organizational change initiatives on an ongoing basis.

In recognition of Truth and Reconciliation principles, the HRO will specifically invite feedback from: the Urban Indigenous Community Advisory Committee with the guidance of the TDSB Council of Elders; the Urban Indigenous Education Centre; and Indigenous, First Nations, Métis, and Inuit members of the TDSB community.

Appropriate Policy revisions will be considered for implementation during the yearly review process.

9.0 APPENDICES

- Not Applicable

10.0 REFERENCE DOCUMENTS

Ontario Human Rights Commission Policies

For additional information, reviewing policies developed by the Ontario Human Rights Commission is encouraged, including:

- [Policy on ableism and discrimination based on disability](#)
- [Policy on accessible education for students with disabilities](#)
- [Policy guidelines on racism and racial discrimination](#)
- [Policy on preventing discrimination based on creed](#)
- [Policy on preventing discrimination based on gender identity and gender expression](#)

Policies

- Acceptable Use of Information Technology Resources (P088)
- Accessibility (P069)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Dealing with Abuse and Neglect of Students (P045)
- Equity (P037)
- Gender-Based Violence (P071)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Respectful Learning and Working Environment (P073)
- Workplace Harassment Prevention for Non-Human-Rights-Code Harassment (P034)
- Workplace Violence Prevention (P072)

Procedures

- Abuse and Neglect of Students (PR560)
- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Code of On-line Conduct (PR571)
- Complaint Protocol for the Board Member of Conduct (PR708)
- E-mail Usage (PR572)
- Police-School Board Protocol (PR698)
- Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools (PR728)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights Procedure (PR515)
[Note: currently under review]

Legislation

- *Canadian Charter of Rights and Freedoms*
- *Education Act*
- *Occupational Health and Safety Act*
- *Ontario Human Rights Code*

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Toronto District School Board

~~1.0 POLICY P.031 EMP: HUMAN RIGHTS~~

Statement

Policy P031

Title: **HUMAN RIGHTS**

Adopted: May 3, 2000

Effectuated: May 3, 2000

Revised: May 19, 2004; [New Date]

Reviewed: May 19, 2004 [date when the policy was reviewed]

Authorization: Board of Trustees

1.0 RATIONALE

The Toronto District School Board ~~is committed to maintaining a learning and working environment which actively promotes and supports human rights. The Board recognizes the value of:~~

- ~~• each and every student;~~
- ~~• a strong public education system;~~
- ~~• a partnership of students, schools, family and community;~~
- ~~• the uniqueness and diversity of our students and our community;~~
- ~~• the commitment and skills of our staff;~~

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- ~~• equity, innovation, accountability and accessibility;~~
- ~~• learning environments that are safe, nurturing, positive and respectful.~~

~~1.0~~

~~The Toronto District School Board is committed to meeting its obligation under the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code by providing safe schools and workplaces that respect the rights of every individual. Every student, employee, trustee, parent and community member has the right to learn and work in an environment free of discrimination and harassment. Discrimination and harassment based on legislated prohibited grounds will not be tolerated. Such behaviour must be addressed not only for its cost in individual, human terms but also for its cost to our social, economic and civic future.~~

~~The purpose of this policy is to prevent discrimination and harassment through greater awareness of and responsiveness to their deleterious effects and to ensure that human rights complaints are dealt with expeditiously and effectively through consistently applied policy and procedures. Nothing in this policy or procedures denies or limits access to other avenues of redress open under the law such as a complaint to the Ontario Human Rights Commission or a grievance.~~

~~The Toronto District School Board is committed to ensuring that education on human rights issues is provided for all staff and students.~~

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~~Policy Components~~

~~1. Legislative Context~~

~~1.1. Canadian Charter of Rights and Freedoms~~

~~The Constitution Act [1982], which includes the Canadian Charter of Rights and Freedoms, is the supreme law of Canada. As such, all other laws and applicable workings of governments, including school boards, must be consistent with its provisions. The charter and Supreme Court of Canada decisions made under the charter guarantee everyone equality regardless of race, national or ethnic origin, citizenship, colour, religion, marital status, sex, sexual orientation, age or mental or physical disability. The charter and Supreme Court decisions also promote the development of programs which are designed to redress the conditions of disadvantaged individuals or groups.~~

~~1.2. Ontario Human Rights Code~~

~~The provisions of the Ontario Human Rights Code apply to private parties and provincial public institutions. The code exists to prevent discrimination and harassment and, through its special program provisions, to foster proactive steps to promote human rights. Human rights law prohibits the creation and/or fostering of negative or poisoned environments that threaten basic human rights.~~

~~2. To ("TDSB") acknowledges and seeks to dismantle Whom Does This Policy Apply?~~

~~This policy applies to all Toronto District School Board students, employees, trustees and other users such as members of consultative committees, clients of the Board, parents, volunteers, permit holders, contractors, and employees of organizations not related to the Board but who nevertheless work on or are invited onto Board premises. This policy also covers discrimination and harassment by such persons which occur outside the study/work place, and which are proven to have repercussions that adversely affect the Board's learning/working environment.~~

~~3. Duties and Responsibilities~~

~~A school board has a duty to maintain an environment respectful of human rights and free of discrimination and harassment for all persons served by it. It must be ever vigilant of anything that might interfere with this duty. In fostering this environment, the Board expects that everyone will:~~

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- ~~be aware of and sensitive to issues of discrimination and harassment~~
~~(a) support individuals who are, or have been, targets of discrimination and harassment.~~
- ~~prevent discrimination and harassment~~ colonial structures
~~take reasonable steps to remove any discriminatory barriers in employment poli-~~
~~cies and practices and~~ recognizes the devastating and ongoing impacts of coloni-
~~zation on First Nations, Métis, and Inuit people. in accessing programs, re-~~
~~sources, and facilities~~

It is recognized and acknowledged that many members of the TDSB community continue to experience exclusion and marginalization, including racism, anti-Indigenous racism, anti-Black racism, ableism, sexism, transphobia & cissexism (discrimination and prejudice on the basis of gender identity), homophobia, and other forms of marginalization and prejudice.

TDSB recognizes that sustained measures, both proactive and reactive, are required to eradicate discrimination and to ensure that all members of the TDSB community are included, welcomed, and feel valued in all TDSB environments.

The Human Rights Policy (the "Policy") affirms and supports the TDSB's commitment to defending, upholding and promoting human rights in all learning and working environments for the benefit of all members of the TDSB community. This Policy supports the implementation of TDSB obligations under the Ontario Human Rights Code, the Education Act, the Canadian Charter of Rights and Freedoms, and the Occupational Health and Safety Act.

- ~~OBJECTIVE~~ take all allegations of discrimination and harassment seriously and respond promptly
- ~~provide positive role models~~
- ~~not demonstrate, allow or condone behaviour contrary to this policy, including re-~~
~~prisal~~
- ~~report immediately hate group activity~~

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~~3.1. Human Resource Services~~

~~The Human Resource Services Department of the Toronto District School Board has the responsibility to designate resources for ensuring the implementation of and compliance with this policy and procedures.~~

~~3.2. Teachers~~

~~Teachers have a particular obligation to ensure that the learning environment is free of discrimination and harassment and to respond speedily to breaches of this policy when they occur. The Board recognizes that preventive education and proactive practices are the best long-term strategies to achieve an inclusive learning and working environment. It is essential, therefore, that Toronto District School Board programs, curriculum, teaching methods and management practices support the values embodied in this policy.~~

~~3.3. Supervisory and Managerial Personnel~~

~~Supervisory and managerial personnel have a specific duty to implement the policy. This duty includes prevention of and response to discrimination and harassment and the education of staff, students and the school community.~~

~~Failure to take measures to address discrimination and harassment in the learning and working environment may have legal implications for the Board.~~

~~4. Grounds and Forms of Discrimination~~

~~4.1. Grounds of Discrimination~~

~~Under this policy, the Board upholds and supports the right to equal treatment without discrimination based on the following prohibited grounds:~~

2.0

The objectives of the Policy are:

- To protect, promote and advance the human rights of all TDSB members (see definition below) to learn, function and work in an equitable, accessible, respectful and inclusive environment free of discrimination and harassment on the basis of the protected grounds of discrimination specified in this Policy and protected under the ~~Age~~ **Ancestry**
- **Ancestry**

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- ~~Citizenship~~
- ~~Colour~~
- ~~Creed (faith)~~
- ~~Disability~~
- ~~Ethnic origin~~
- ~~Family status~~
- ~~Gender~~
- ~~Gender identity~~
- ~~Marital status~~
- ~~Place of origin~~
- ~~Race~~
- ~~Same-sex partnership status~~
- ~~Sexual orientation~~
- ~~Socio-economic status~~

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4.2. Forms of Discrimination

- Discrimination is defined as unfair treatment of a person or group based on the grounds listed above. Discrimination can occur in many ways Ontario Human Rights Code.

To ensure TDSB meets its positive human rights obligations, including to proactively identify, address, and prevent all forms of the following:

- Direct discrimination, including individual and systemic: Any action from individuals, groups or organizations, whether intended or unintended, which differentiates between persons based on their membership in a protected group as set out in this policy other than special programs designed to address the conditions of individuals or groups
- Indirect discrimination.

3.0 DEFINITIONS

For the purposes of this Policy:

Accommodation – see below under “Duty to Accommodate”.

Allegation means an unproven claim or assertion that someone has violated this Policy.

Board means Toronto District School Board, which is also referred to as “TDSB.”

Code means the Ontario Human Rights Code.

- Condonation means the practice — or condonation: Occurring when discrimination and harassing behaviour are either overlooked or accepted particularly on the part of a person by supervisory or managerial personnel
- Systemic discrimination: Arising from policies, procedures, practices and conduct which may not be discriminatory in their intent but adversely impact individuals or groups protected by this policy where the adverse impact arises from one of the prohibited grounds of discrimination

Harassment: A form of discrimination defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be

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~~unwelcome. Sexual harassment is a particular form of harassment. It can take the form of a sexual advance, request for sexual favours or sexual flirtation or banter made by any person, including a person in a position of authority – of overlooking, downplaying, accepting and/or failing to respond to discriminatory behaviour, to grant, confer or deny a benefit, privilege, or advancement, where the person engaging in such conduct knows, or ought reasonably to know, that it is unwelcome. Sexual attention by an employee toward a student is unacceptable under any circumstances and shall constitute a violation of this policy~~

Directing Minds means employees with supervisory authority who function, or are seen ~~Failure to function~~, as representatives of an organization. Persons who are not identified as supervisors *per se* may be directing minds if they have supervisory authority or have significant responsibility for the guidance of employees.

Discrimination means adverse treatment in a TDSB environment that is unfair based on one or more protected grounds; or treatment that results in disadvantage, violates dignity, or perpetuates prejudice against a person or group in a TDSB environment in relation to one or more protected grounds. Discrimination can be direct or indirect, individual or systemic (see definition below), and need not be intended. It also includes hate activity in TDSB environments.

Intersectional discrimination is a form of discrimination that occurs based on two or more Code grounds that produce a unique and distinct form and experience of discrimination that cannot be reduced to any single Code ground. The concept of intersectional discrimination recognizes that people may have multiple overlapping identities, and that marginalization, exclusion and discrimination may be further exacerbated because of how these identities interact or “intersect.”

Discrimination does not include the existence of measures designed to relieve disadvantage or systemic discrimination, or to assist persons or groups who experience disadvantage to achieve or attempt to achieve equal opportunity.

Duty to Accommodate means the legal obligation to make adjustments, provide support, or make exceptions in order to avoid discrimination on the basis of a protected ground so as to ensure fair and equitable access, treatment, and inclusion, and for individuals to be able to participate equally and perform to the best of their abilities in the learning environment, workplace, or other TDSB environment.

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reasonably

- The duty to accommodate may require making adjustments to or exceptions to policies, procedures, programs, guidelines, practices, physical settings, requirements, or criteria in keeping with the principle of the primacy of the Code.
- If a person in a position of authority has information or has made observations that suggests there may be a need for accommodation, that person is under a duty to make reasonable inquiries into whether an accommodation may be required.
- When there is a duty to accommodate, accommodation is required up to the point a person short of undue hardship, which is a very high threshold.
- The procedural duty to accommodate requires that the accommodation process be transparent, collaborative and respectful. Requests for accommodation cannot be ignored.

Employee includes any person who is an “employee” under the Code. It also includes any person who is a “worker” under the Occupational Health and Safety Act including, but not limited to: full-time, part-time, regular, temporary, and probationary employees; co-op students; and contract employees.

Harassment means a course of vexatious comment or conduct in a TDSB environment, based on a protected ground, which is known, or ought reasonably to be known, to be unwelcome, and includes sexual harassment. Harassment is a form of discrimination. It is usually the result of a series of incidents (“a course” of comment or conduct) but may also result from one very serious incident. (Note: non-Code workplace harassment, which is not based on a protected ground, is on any of the grounds covered under the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy [P034].)

Hate Activity means a hate crime or a hate incident.

Hate Incident means non-criminal conduct that is motivated in whole or in part by hatred against an individual or group on the basis of a protected ground. A hate incident can encompass situations in which the conduct is directed against people associated with individuals or groups identified with the protected grounds. The conduct can be verbal, nonverbal or written, and may manifest itself in the

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form of slurs, insults, harassment, abusive gestures, taunting, display of offensive materials or hate symbols, or other acts which may intimidate, degrade and/or marginalize the targeted individual or group.

Hate Crime means a criminal offence that is committed against a person or property, and which is motivated in whole or in part by hatred or bias based on race, national or ethnic origin, language, colour, creed, religion, sex, age, mental or physical disability, sexual orientation, gender identity, or gender expression. This includes, but is not limited to, hate-motivated violence, incitement to hate-motivated violence, and/or the display of symbols or other representations identified with groups promoting hate and violence. It also includes such crimes committed against a person who is associated, or perceived to be associated, with individuals or groups identified with one of the aforementioned Code-protected grounds.

HRO means the Human Rights Office.

Instance includes an incident, event, ongoing situation, circumstance, environment, practice, ~~this policy~~, procedure, rule, directive, etc. that gives rise to a breach of this Policy. The term “potential instance” refers to knowledge, including based on rumour, report, or reasonable suspicion, that warrants investigation to ascertain whether a violation of this Policy has occurred.

Learning Environment means any land, premises, location, event or thing at, upon, or in which a TDSB student or TDSB member (see definition below) learns or engages in activities connected to the learning environment (e.g. parent engagement/parent council activity etc.). This includes virtual/online environments. Conduct that has consequences for the learning environment, regardless of where it occurs, may be considered to have occurred in the learning environment.

Manager means a supervisor or a directing mind as defined in this Policy.

OHSA means the *Occupational Health and Safety Act*. The *OHSA* prohibits all workplace harassment even if not on the basis of a protected ground. This Policy implements *OHSA* requirements with regard to workplace harassment on the basis of a protected ground. The Workplace Harassment Prevention for Non—Human-Rights-Code Harassment Policy (P034) implements the *OHSA*

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requirements with regard to workplace harassment that is not based on a protected ground.

Parent means a parent, guardian or any other caregiver legally recognized as acting in place of the parent.

Person in a Position of Authority means a manager, or a person with authority over students (eg. teachers, educational assistants, school-based safety monitors, child and youth workers, designated early childhood educators, lunchtime supervisors, bus drivers, office support staff, etc.).

Poisoned Environment means a TDSB environment that is oppressive, negative, hostile, unwelcoming, or non-inclusive as a result of vexatious behavior that is based on a protected ground and that is known, or ought reasonably to be known, to be unwelcome. The vexatious behaviour or conduct does not need to be directed toward any person or group in particular. A poisoned environment may result from a series of incidents or a single serious incident, condonation of such behavior, and/or the failure to adequately remedy and restore the environment following the incident(s).

Positive Human Rights Obligations, also called “positive obligations”, mean organizational duties which entail taking active steps to safeguard and advance human rights. Examples of positive obligations include: conducting training; monitoring human rights compliance through data collection, analysis and reporting; and other affirmative measures aimed at preventing human rights violations and fostering a culture of human rights, even in the absence of complaints.

Protected Ground means the grounds upon which discrimination is prohibited under the Ontario Human Rights Code and this Policy. The grounds are:

- Age (an age that is 18 years or more)
- Ancestry
- Citizenship
- Colour
- Creed (includes but is not limited to religion and Indigenous spirituality)
- Disability (includes mental, physical, perceived)
- Ethnic origin
- Family status (includes child, adoptive, elder relationships)
- Gender expression

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- Gender identity
- Marital status (including single, separated, widowed, common law and co-
vers same and opposite sex relationships)
- Place of origin
- Race
- Sex (includes pregnancy and breastfeeding)
- Sexual orientation
- Socio-economic status*
- Record of offences (in employment only)
- Association ~~Discrimination against individuals because of their relationship or
association with a person or persons identified by a prohibited ground listed
above~~

*Note: Socio-economic status is a protected ground of discrimination under this
Policy, but not under the Code. policy.

Treatment that occurs as a result of perceived membership in a protected group
is also protected.

RBH Portal means the Racism, Bias and Hate online reporting portal, a system
which enables detailed incident reporting on racism and hate incidents involving
or impacting students in schools, as governed by the procedure for Reporting
and Responding to Racism and Hate Incidents Involving or Impacting Students in
Schools (PR728). It also provides a record of responses to such incidents, in the
form of action plans and communication strategies, while allowing for the identifi-
cation of any potential lessons learned, good/best practices, future preventative
measures required, and any other systemic considerations.

Reprisal means adverse action or threat of adverse action against an indi-
vidual that is in retaliation:

- (a) for, in good faith, raising concerns or claiming or enforcing a right under
this Policy or associated procedures or supporting or assisting some-
one to do so;
- (b) for participating in a process to address a matter under this Policy or
associated procedures; or
- (c) on the basis of a belief that the individual has engaged in (a) or (b).

Adverse action in the above definition could include, for example:

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- disciplining, suspending, dismissing, or expelling;
- intimidating or coercing someone not to report a situation;
- changing an employee's position, shift, work location, work assignments or the nature of their work;
- moving a student to a different class;
- unfair grading;
- reducing or changing an employee's hours;
- denying a promotion; or
- harassing or discriminating.

Sexual Harassment means:

- (a) engaging in a course of vexatious comment or conduct because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome;
- (b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance; or
- (c) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. This creates a higher standard for those in positions of power because the solicitation or advance does not have to be "a course of conduct" or "egregious." Where the unwanted sexual solicitation or advance is from a person not in a position of authority, the usual test of "course of conduct" or "single egregious incident" applies.

Sexual Harassment also includes cyber sexual harassment.

Student means a person who is enrolled at TDSB and includes an adult.

Supervisor means an employee who exercises managerial/supervisory authority in relation to other employees or volunteers.

Systemic Discrimination means patterns of behaviour, policies and/or practices that are part of administrative structures or informal culture within TDSB, and that create or perpetuate disadvantage for individuals or groups on the basis of a protected ground.

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TDSB means Toronto District School Board, which is also referred to as the "Board."

TDSB Environment includes a TDSB learning or working environment, as defined in this Policy, and includes:

- TDSB owned or operated places, Board premises, offices, and facilities (including eating, lounge/changing areas and vehicles used for TDSB purposes or on TDSB property);
- schools and school-related activities;
- Board-related functions, activities, or events;
- online environments;
- activities, including electronic messages and postings on electronic and social media, which have significant negative consequences for the TDSB environment; and
- all applicable social areas (eg. employment, goods, services, and facilities; and contracts) protected by the Code.

TDSB Member/Member of the TDSB Community means, but is not limited to, students, parents/guardians, employees, job applicants, trustees, committee members, school/parent council members, permit holders (including organizations who use Board facilities), vendors, service providers, contractors, volunteers, visitors, customers of the Board, bargaining agents and associations, and all other persons who are invited to, work in, or are permitted to attend or participate in TDSB environments.

Vexatious means comment or conduct that is inappropriate or unnecessary and that a TDSB member experiences as offensive, embarrassing, humiliating, distressing or demeaning.

Workplace/Working Environment means any land, premises, location or thing at, upon, in or near which an employee works, in keeping with the definition in the OHSA. For the purpose of this Policy, it also includes any place where individuals perform work or work-related duties or functions. Schools and school-related activities, such as extra-curricular activities and excursions comprise the workplace, as do Board offices and facilities (including eating, lounge or changing areas, and vehicles used for work purposes or on work property). Conferences, workshops, training sessions and staff functions (for example, staff parties and retirement celebrations) and job competitions also fall within the scope of this Policy.

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Regardless of where it occurs, conduct that has work-related consequences may be considered to have occurred in the workplace. Phone calls, electronic messages, and postings on electronic and social media may form part of the workplace.

4.0 RESPONSIBILITY

The Director of Education holds primary responsibility for implementation of this Policy.

Within the Director's Office, the responsibility for coordination and day to day management of the Policy is assigned to the Executive Superintendent, Human Rights and Indigenous Education.

5.0 APPLICATION AND SCOPE

This Policy applies to all students, employees, and other members of the TDSB community in TDSB environments.

The Policy prohibits discrimination and harassment on the basis of the protected grounds and covers all Code protections applicable to the TDSB environment. It also prohibits hate activity.

Harassment that is not related to a protected ground does not fall under this Policy but may fall under other Board policies such as the Code of Conduct (P044). Workplace harassment that is not related to a protected ground falls under the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034).

6.0 POLICY

- ~~• 6.1. Policy Reprisals which may include threats, intimidation, denial of opportunity or undue negative focus on the rights of individuals or groups who claim and enforce their rights under this policy.~~
- ~~• Negative or "poisoned" environments created and fostered by acts or omissions that maintain offensive or intimidating climates for study or work. Poisoned learning environments include inappropriate or non-inclusive curriculum and pedagogy, bias or discriminatory barriers in existing policies, programs, or~~

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~~assessment procedures, and discriminatory comments made by teachers and other employees. Poisoned working environments thrive where there is managerial or supervisory condonation of discriminatory or harassing behaviour. Poisoned environments can also be created where there is inattention to fair and equitable recruitment and employment policies, practices and procedures.~~

- ~~• Hate group activities~~

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5. ~~Hate Group Activities~~

~~Hate group activities represent some of the most destructive forms of human rights-based discrimination by promoting hatred against identifiable groups of people. Hate groups generally label and disparage people who may include immigrants, people with disabilities, members of particular racial, religious or cultural groups, people who are gay or lesbian. Hate group activities will not be tolerated. Such activities contravene this policy, and other potential board policies related to school safety and may also contravene the Criminal Code of Canada.~~

6. ~~Complaints~~

~~All those who are covered by this policy are entitled and encouraged to complain about discrimination and harassment and are entitled to have access to the complaint procedures. In addition, nothing in these procedures precludes individuals who believe they are targets of (or have witnessed) discrimination and harassment from directly expressing that the behaviour is inappropriate and must stop immediately. Many complaints can be resolved quickly and effectively using this approach. In order to stop discrimination and harassment, supervisory and managerial personnel must expeditiously address and attempt to resolve complaints under this policy and procedures.~~

Statement

6.1.1. The TDSB is committed to safeguarding, advancing and proactively promoting the right of every student, employee and TDSB member to learn, function and work in an equitable, accessible, respectful and inclusive environment free of discrimination and harassment.

6.1.2. All forms of discrimination and harassment based on a protected ground are strictly prohibited in TDSB environments, in fulfillment of legal obligations under the Ontario *Human Rights Code*, the *Canadian Charter of Rights and Freedoms*, the *OHSA* and in accordance with international human rights covenants, conventions, treaties and declarations to which Canada is a signatory, including the United Nations Declaration on the Rights of Indigenous Peoples.

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6.1.3. The Board will not tolerate, condone or ignore discrimination, harassment or hate activity in its schools, facilities, workplaces or other TDSB environments.

6.1.4. The Board will take every reasonable step to:

- Prevent discrimination, harassment and hate activity and to cultivate and sustain equitable, accessible, respectful and inclusive learning, working, and other TDSB environments free of discrimination and harassment.
- Treat allegations of discrimination or harassment seriously, and appropriately address them in a timely, fair, proportionate manner, in accordance with this Policy, the applicable procedures and applicable law, with the aim of preserving the dignity, respect and rights of all parties.
- Promote awareness of human rights and responsibilities.
- Restore learning, working, and other TDSB environments affected by discrimination, harassment or hate.
- Fulfill its duty to accommodate persons based on a protected ground, up to the point of undue hardship, in accordance with its legal obligations, including under the Code.

6.2. Principles

In fulfilling its positive human rights obligations and commitments to protect and advance human rights, TDSB will:

- (a) Recognize and give life to the primacy of the *Human Rights Code* over policy, procedure, directives, rules, practices, contractual agreements, and over other legislation as specified in s. 47(2) of the *Code*.
- (b) Function in a proactive, systemic, and informed manner (based on evidence when available) so that the Board may take necessary steps to prevent and avert violations of this Policy and be actively alert to emerging issues, systemic trends and conditions that may potentially

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contribute to discriminatory outcomes, rather than only waiting for breaches of human rights to occur or become apparent before being addressed.

- (c) Recognize that fostering and sustaining an equitable, accessible, respectful and inclusive environment free of discrimination and harassment is integral to the fulfillment of all TDSB roles and functions, and is a shared responsibility requiring the cooperation of all TDSB members.
- (d) Cultivate public trust and accountability, including being transparent with the communities we serve, through public reporting and engagement around human rights issues and outcomes at the Board, and other appropriate measures.
- (e) Interpret and apply this Policy harmoniously with the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples, in recognition of Indigenous sovereignty, and in keeping with the principles set out in *What We Have Learned: Principles of Truth and Reconciliation* by the Truth and Reconciliation Commission of Canada.
- (f) Interpret and apply this Policy harmoniously with the spirit and intent of the Board's Equity Policy (P037), and the Board's commitments to principles of anti-racism and anti-oppression, and will not interpret or apply this Policy in a manner that undermines the values or rights reflected therein.

6.3. Policy Violations

Engaging in discrimination, harassment or hate activity of any kind is a violation of this Policy. Behaviours and practices in TDSB environments that are contrary to this Policy include, but are not limited to, the following examples:

(a) discrimination;

(b) harassment including sexual harassment;

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- (c) creating or contributing to a poisoned environment;
- (d) hate activity;
- (e) failure of a person in a position of authority to respond appropriately and expeditiously to allegations, instances, potential instances or complaints of discrimination, harassment, poisoned environment, or reprisal;
- (f) failure of management to identify, address, or remove systemic discrimination;
- (g) interference with an investigation under this Policy, including but not limited to intimidating any person involved in the investigation, or influencing a person to give false or misleading information;
- (h) reprisal;
- (i) bad faith allegations, complaints, or accusations (e.g., submitting a complaint knowing there has been no violation of this Policy);
- (j) purposefully or recklessly providing false or misleading statements or information to an investigator investigating a matter under this Policy;
- (k) failure to adhere to the confidentiality provisions set out in the procedures made pursuant to this Policy; and
- (l) failure to fulfill the procedural or substantive duty to accommodate under the Code, including failure to offer effective or appropriate accommodation up to the point of undue hardship.

6.4. Consequences for Policy Violations

Action may be taken with any TDSB member who fails to abide by the requirements set out in this Policy and associated procedures, including but not limited to performance management, remedial action or discipline up to and including termination of employment, suspension or expulsion from educational services, or removal from or denial of access to TDSB institutional spaces and

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facilities, in accordance with applicable law, the remedial purpose of the Code, and where appropriate, principles of progressive discipline.

Note: Remedial action for persons who are not employees is taken after consultation with the Legal Services Department and/or Safe Schools Department and/or applicable superintendent, as appropriate. This may result in, but is not limited to, denial of access to Board premises or issuance of trespass notices. Remedial or disciplinary action for employees must be done in consultation with Employee Services, and a disciplinary review committee as required in accordance with procedure made pursuant to this Policy.

6.5. Human Rights Organizational Change Program

6.5.1. In keeping with TDSB's positive obligations, the TDSB will create and maintain a systemically focused and proactive Human Rights Organizational Change Program that will aim to prevent discrimination and harassment and enable, support and advance the creation and preservation of a transformational culture of human rights at the TDSB in which all members of the TDSB community:

- equitably flourish with dignity and respect; and
- achieve equitable outcomes in TDSB learning and working environments, free from discrimination and harassment.

6.5.2. The program will include, but not necessarily be limited to, the following, as further specified in section 6.5.3 to 6.5.7 below:

- (a) A process to identify, remove and prevent potential systemic forms of discrimination, whether by virtue of acts of commission or omission, in TDSB policies, procedures or practices;
- (b) A performance management framework that integrates and embeds accountability for human rights across the organization, including in hiring and promotion decisions;
- (c) Data collection, analysis and reporting to measure and evaluate TDSB's progress in protecting and advancing human rights, and to inform appropriate remedial and preventive systemic interventions; and

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(d) Information, learning and awareness to ensure TDSB members are aware of their rights and responsibilities under this Policy and have the necessary knowledge, skills and competencies to exercise those rights and to fulfill those responsibilities.

6.5.3. Review of Policies, Procedures and Practices

(a) The TDSB will review policies, procedures and practices, and revise or develop these whenever necessary to ensure compliance with this Policy.

(b) The HRO will develop and implement a Human Rights Impact Assessment (HRIA) framework to be used in identifying, assessing, mitigating, remedying or preventing systemic discrimination, including as this manifests in policies, practices, or procedures, or the lack thereof.

(c) The HRO may initiate a Human Rights Impact Assessment of a TDSB policy, practice or procedure, or lack thereof, where it believes there may be a significant discriminatory effect. In conducting the HRIA, the HRO will consider the potential extent and depth of adverse impacts and outcomes on protected grounds, and offer recommendations to eliminate and prevent these.

(d) TDSB members must comply with HRO requests for information for the purposes of Human Rights Impact Assessments (unless deemed legally privileged and confidential). The HRIA process may include inviting public input from affected members of the community.

(e) The results of Human Rights Impact Assessments will be posted publicly on a Board website or referenced in the HRO's Annual Human Rights Report (see section 6.5.5.3 below).

6.5.4. Performance Management and Accountability

The following measures will be developed and implemented:

(a) The TDSB will ensure that human rights competencies are evaluated as a standalone competency in the context of performance

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appraisals and in hiring and promotion decisions for system leaders, administrators, teachers, and other employees who undergo applicable performance appraisals. This competency will have increasing degrees of weight and consideration for managers, according to their power and supervisory authority, owing to their additional corporate responsibilities to protect and advance human rights in areas under their supervision. For positions involving direct responsibility for or engagement with students, it will be a primary and necessary competency and a required qualification.

(b) Violations of human rights will be tracked and considered in employment hiring and promotion decisions.

(c) The TDSB will incentivize system leaders to advance human rights organizational change, including by recognizing and rewarding excellence in safeguarding and promoting human rights.

6.5.5. Data Collection, Analysis and Reporting

6.5.5.1. Recognizing the value of quantitative and qualitative data for evaluating human rights compliance and progress, identifying human rights issues and trends, and informing appropriate evidence-based, remedial or preventative interventions, TDSB Senior Team members will, at least annually, analyze and review the results of relevant existing human rights data including as collected through the RBH Portal, HRO inquiry and complaint process, the Student and Parent Census, the Staff Census & Well-Being Survey, and school climate surveys.

6.5.5.2. The HRO will consider and, where appropriate, develop in collaboration with other Board departments, additional human rights data collection tools and indicators to gather the perspectives/experiences of students, parents, employees and other TDSB members.

6.5.5.3. The HRO will produce an Annual Human Rights Report for the Board of Trustees including the above de-identified data findings. The report will also include disaggregated data findings, based on the protected grounds, in order to identify inequalities and areas where concerted effort

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is needed to close human rights gaps. This Report will be released publicly including by posting it on a TDSB website.

6.5.6. Information, Learning and Awareness

6.5.6.1 The Board will develop and implement measures to build TDSB members' capacity to promote an equitable, accessible, respectful and inclusive environment free of discrimination and harassment including by:

- (a) Making accessible, user-friendly information and instruction available to ensure TDSB members are aware of their human rights and responsibilities, and how to fulfill them.
- (b) Requiring all employees and newly promoted managers to receive information and training on this Policy and associated procedures within their first three months.
- (c) Requiring managers (including executives) to participate in education and/or training on this Policy and associated procedures at least every five (5) years, or whenever there are significant changes to this Policy or associated procedures.
- (d) Requiring all TDSB employees to participate in education and/or training on this Policy and associated procedures at least every five (5) years.
- (e) Ensuring that age-appropriate, accessible, user-friendly information, resources, and education about student human rights and responsibilities, and associated redress processes are provided to students on an ongoing basis, and as appropriate in response to specific incidents.
- (f) Designating a staff member or staff members, who do not report to the school administration, as Student Human Rights Advocate(s) to advise, support and help students whose human rights may have been violated at TDSB.

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(g) Ensuring that accessible, user-friendly information and resources about student human rights (including the duty to accommodate as it relates to special education) in TDSB and related policies, procedures and practices are provided to all parents at the start of each school year.

6.5.6.2 The Urban Indigenous Education Centre, guided by the TDSB Council of Elders, will designate a staff member or staff members as Indigenous Human Rights Advocate(s) to support the human rights of Indigenous, First Nations, Métis and Inuit members of the TDSB community. This position will be housed within the Urban Indigenous Education Centre and will report to the Systems Superintendent of Indigenous Education or a designate.

6.5.7. Review of Human Rights Organizational Change Program

The Board will review the Human Rights Organizational Change Program at least every five (5) years, or as needed, and consult with affected TDSB community members on any changes, as part of the review process.

6.6. Roles and Responsibilities

6.6.1. All members of the TDSB community

(a) All members of the TDSB community are responsible for adhering to this Policy and the associated procedures, and respecting the human rights and dignity of each person within their respective sphere of interaction and influence, playing their part in the creation and maintenance of TDSB environments that are free of discrimination and harassment.

(b) All members of the TDSB community must cooperate fully in appropriate attempts under this Policy or associated procedures to address a situation or complaint, including an investigation, to the extent of their capacity (e.g. considering age, cognitive impairment etc.) and to the extent permitted by law.

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6.6.2. Employees

(a) All employees, including those who witness incidents, should report – and in the case of situations affecting students, must report – discrimination, harassment, hate activity, and other violations of this Policy to the appropriate person (typically one’s supervisor or the next level supervisor not involved or implicated) in accordance with PR515 and PR728 and any other procedure made pursuant to this Policy.

(b) Employees should be aware of and sensitive to issues of discrimination and harassment, and should support individuals who are, or have been, targets of discrimination and harassment.

6.6.3. Director

The Director of Education, who holds primary responsibility for implementation of this Policy, will safeguard and promote an equitable, accessible, respectful and inclusive environment free of discrimination and harassment including by:

(a) Regularly assessing the effectiveness of measures designed to protect and advance human rights within the Board, and, when needed, revising such measures, or replacing them with new ones, in consultation with the Human Rights Office.

(b) Taking necessary proactive steps to identify, address, and prevent systemic discrimination, and advance human rights organizational change, including by ensuring effective implementation of related program measures, as identified in section 6.5.

(c) Ensuring the implementation of an appropriate process to identify, handle, investigate, and remedy instances, potential instances, allegations, and complaints of discrimination, harassment, poisoned environment and reprisal in a manner appropriate in the circumstances, through this Policy and the associated procedures.

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- (d) Holding all TDSB members accountable for complying with this Policy and associated procedures, particularly system leaders who are directing minds of the Board.
- (e) Ensuring that the Human Rights Office is independent and impartial as it carries out its mandate, and taking reasonable measures to ensure it is seen as such by all members of the TDSB community.
- (f) Designating and preserving adequate resources for ensuring the full and proper implementation of this Policy and the associated procedures.

6.6.4. Persons in Positions of Authority

6.6.4.1 Persons in positions of authority are responsible for not only their own conduct, but also for addressing the conduct of those under their supervision. To prevent and address instances, potential instances, allegations, and complaints of discrimination, harassment, poisoned environment, hate activity, and reprisal, persons in positions of authority will:

- (a) Lead by example by not engaging in, tolerating or condoning discrimination or harassment or any other violations of this Policy.
- (b) Make all reasonable efforts to promote an environment that encourages reporting violations of this Policy.
- (c) Make all reasonable efforts to protect those under their supervision from all forms of discrimination and harassment by maintaining equitable, accessible, respectful and inclusive learning and working environments that are free of discrimination, harassment, poisoned environments, and reprisal.
- (d) Where appropriate to their position of authority, educate or provide educational opportunities for TDSB members to ensure they are aware that discrimination and harassment will not be tolerated, that they understand their rights and responsibilities as they relate to this

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Policy and the associated procedures, and that they understand how to report violations.

(e) Take all instances, potential instances, and complaints of discrimination and harassment, or any other violations of this Policy, seriously, including by promptly:

(i) intervening when it occurs or is suspected to have occurred; and

(ii) making inquiries or consulting with a direct supervisor, the HRO, or other department of the Board, as appropriate, to assist in effectively managing allegations, instances, potential instances, and complaints.

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6.6.4.2 Managers

In addition to the above, managers will:

- (a) Be knowledgeable of this Policy and the associated procedures.
- (b) Post this Policy and associated procedures in a conspicuous location in workplaces under their supervision where it would be likely to come to employees' attention, and make the Policy and procedures available (electronically or by hard copy).
- (c) Promptly impartially investigate allegations, instances, potential instances, and complaints of discrimination, harassment, and any other violations of this Policy, in accordance with this Policy, associated procedures, the Code, and where applicable the OHSA;
- (d) Take remedial and/or disciplinary action with any person found to have engaged in conduct in violation of this Policy.

6.6.4.3 Principals

In addition to the above, principals will:

- (a) Review this Policy and the associated procedures with school staff at the start of each school year; and
- (b) Ensure that students are provided information, resources and education specified in 6.5.6.1(e) above.

6.6.5. Human Rights Office

6.6.5.1. As TDSB's centre of human rights expertise, the HRO will:

- (a) Advise members of the TDSB community about their human rights and obligations, including by producing and disseminating user-friendly materials for display in schools, workplaces, and other TDSB environments;

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(b) Impartially and fairly investigate, resolve, mediate and address human rights complaints and incidents, including in the areas of employment and education; and

(c) Proactively and systemically advance human rights organizational change including through:

- (i) identification of systemic human rights issues;
- (ii) professional development, education, and capacity building;
- (iii) policy and procedure review and development;
- (iv) outreach and engagement with school communities; and
- (v) research, data collection, analysis, reporting and evaluation of TDSB's performance in protecting and advancing human rights.

6.6.5.2. The HRO will function as the facilitative lead for the development, coordination and implementation of the Board-approved Human Rights Organizational Change program, pursuant to section 6.5., in collaboration with other Board Departments (e.g. Equity, Indigenous Education, Employee Services, Research, Special Education and Inclusion, Disability Management Office, Accessibility Office, Employment Equity, etc.).

6.6.5.3. The HRO may self-initiate inquiries, environmental scans or investigations where it reasonably believes that rights under this Policy may have been violated, including in the absence of a complaint.

6.7. The Duty to Accommodate

Members of the TDSB community should refer to the HRO website for guidelines or procedures connected to the duty to accommodate.

6.8. Addressing Policy Violations

Members of the TDSB community should refer to the procedures created pursuant to this Policy for information on addressing instances, potential instances, allegations, and complaints of violations of this Policy.

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7.0 SPECIFIC DIRECTIVES

The Director has authority to issue operational procedures to implement this Policy.

8.0 EVALUATION

The Human Rights Policy will be reviewed as required, and at least annually, in accordance with the *Occupational Health and Safety Act*.

The HRO will implement a mechanism to receive feedback on this Policy, associated procedures, and human rights organizational change initiatives on an ongoing basis.

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In recognition of Truth and Reconciliation principles, the HRO will specifically invite feedback from: the Urban Indigenous Community Advisory Committee with the guidance of the TDSB Council of Elders; the Urban Indigenous Education Centre; and Indigenous, First Nations, Métis, and Inuit members of the TDSB community.

Appropriate Policy revisions will be considered for implementation during the yearly review process.

9.0 APPENDICES

- Not Applicable

10.0 REFERENCE DOCUMENTS

Ontario Human Rights Commission Policies

For additional information, reviewing policies developed by the Ontario Human Rights Commission is encouraged, including:

- Policy on ableism and discrimination based on disability
- Policy on accessible education for students with disabilities
- Policy guidelines on racism and racial discrimination
- Policy on preventing discrimination based on creed
- Policy on preventing discrimination based on gender identity and gender expression

Policies

- Acceptable Use of Information Technology Resources (P088)
- Accessibility (P069)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Dealing with Abuse and Neglect of Students (P045)
- Equity (P037)
- Gender-Based Violence (P071)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Respectful Learning and Working Environment (P073)

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ ~~Policy P.031 EMP~~

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i. ~~Toronto District School Board~~

~~Policy P.031 EMP: Human Rights~~

- Workplace Harassment Prevention for Non-Human-Rights-Code Harassment (P034)
- Workplace Violence Prevention (P072)

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy ~~P.031 EMP~~

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~~i. Toronto District School Board~~

Policy P.031 EMP: Human Rights

Procedures

- Abuse and Neglect of Students (PR560)
- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Code of On-line Conduct (PR571)
- Complaint Protocol for the Board Member of Conduct (PR708)
- E-mail Usage (PR572)
- Police-School Board Protocol (PR698)
- Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools (PR728)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights Procedure (PR515)
[Note: currently under review]

Legislation

- Canadian Charter of Rights and Freedoms
- Education Act
- Occupational Health and Safety Act
- Ontario Human Rights Code

~~Human Rights~~

~~Adoption Date: May 3, 2000~~ Policy ~~P.031 EMP~~

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Appendix C – Human Rights Policy (P031) Summary of Changes

Overview

The Human Rights Policy (the Policy) affirms and supports Toronto District School Board's commitment to defend, uphold and promote human rights in all learning and working environments. It applies to all students, employees, and other members of the TDSB community in TDSB environments.

The Policy prohibits discrimination and harassment on the basis of protected grounds and identifies how the Board will meet its obligations under the Ontario *Human Rights Code* (the Code), as well as under the *Occupational Health and Safety Act* (with respect to workplace harassment based on Code protected grounds).

The amended Human Rights Policy:

1. Emphasizes and actions systemic and proactive dimensions of the Board's human rights commitments;
2. Articulate human rights-related responsibilities of employees, directors, supervisory and management personnel, and the Human Rights Office.

Highlights of Changes

Establish a Human Rights Organizational Change Program

The TDSB is shifting its human rights approach from primarily complaints-driven to a positive obligation model that seeks to proactively identify, address, and prevent human rights violations from occurring in the first place. Elements of the organizational change program will include:

- the development and implementation of a Human Rights Impact Assessment framework
- the development and implementation of a performance management framework
- Data collection, analysis and reporting
- Information, learning and awareness

Human Rights Impact Assessment framework

The Policy commits to the development of a Human Rights Impact Assessment framework to identify, remedy and prevent systemic discrimination including as it manifests in policies, practices, or procedures, or the lack thereof. The HRO may initiate a Human Rights Impact Assessment where it believes there may be a significant discriminatory effect.

Performance Management Framework

The Policy commits to the development of a performance management framework that integrates and embeds accountability for human rights across the organization, including in hiring and promotion decisions. Human rights will be required as a competency in staff performance appraisals, hiring, and promotion decisions. Violations would be tracked and taken into account in promotion decisions.

Data Collection and Reporting

The Policy enhances the Board's commitment to monitor human rights compliance and identify systemic trends through data collection, analysis and reporting. This will enable the Board to develop evidence-based remedial or preventative interventions. The Policy also requires the development of an Annual Human Rights Report for the Board of Trustees, that includes de-identified and disaggregated data findings.

Information, Learning, and Awareness

Building TDSB members' capacity is key to creating a human rights culture. Measures will be developed and implemented to ensure members are aware of their rights and responsibilities under this Policy and have the necessary knowledge, skills and competencies to exercise those rights and to fulfill those responsibilities. The policy requires the designation of an Indigenous Human Rights Advocate(s) to support the human rights of Indigenous, First Nations, Métis and Inuit members of the TDSB community, as well as the designation of Student Human Rights Advocate(s) to advise, support and help students whose human rights may have been violated.

Updated and New Definitions, Roles and Responsibilities

The Policy revises existing definitions (e.g. reprisal, poisoned environment, and systemic discrimination) and adds new definitions (e.g. positive obligations, directing minds, person in a position of authority). In combination with setting out human rights-related responsibilities, the definitions to support accountability and to better protect and advance human rights. the Policy also confirms that the Human Rights Office can initiate inquiries, investigations, and environmental scans in the absence of a complaint from an individual.

Community Input

The HRO will implement a mechanism to receive feedback on this Policy, associated procedures, and human rights organizational change initiatives on an ongoing basis. The HRO will specifically invite feedback from: the Urban Indigenous Community Advisory Committee with the guidance of the TDSB Council of Elders; the Urban Indigenous Education Centre; and Indigenous, First Nations, Métis, and Inuit members of the TDSB community.

POLICY REVIEW WORK PLAN

Date: 30 May 2017

All policies will be reviewed to ensure consistency with the TDSB's *Mission and Value (P002)* policy, including the principles within the TDSB's Integrated Equity Framework that promote equity and inclusion.

POLICY INFORMATION

Policy Title and Policy Number: [Human Rights \(P031\)](#)

Review during fiscal year: [2016/17](#)

Last revised or reviewed: May 19, 2004

Adopted: [May 3, 2000](#)

Executive Council member responsible for this Policy review: [Associate Director, Equity and Achievement, and Manager, Human Rights.](#)

Phase I. PLANNING AND OBTAINING TRUSTEES' DIRECTIONS

This Policy Review Plan has been discussed with the Policy Coordinator:

- ☒ Yes
☐ No

This Policy Review Plan will be discussed at the Governance and Policy Committee meeting held on: [June 7, 2017](#)

Phase II. REVISIONS

Formatting Changes

The Policy will be reformatted to ensure alignment with the current Policy Template (see Operational Procedure PR501, Policy Development and Management):

- ☒ Yes
☐ No

Content Changes

The Policy requires content revisions:

- ☒ Yes
☐ No

The content changes are due to the following reason(s):

- ☒ Legislation
☐ Government directives/policies

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- ☐ Board decisions
- ☒ Operational requirements
- ☒ Simplify and/or update using plain language
- ☒ Alignment with Integrated Equity Framework
- ☐ Other – Recommendations of the Coroner’s jury as related to the Katelynn Sampson Inquest

The proposed changes to the Human Rights Policy (P031) include:

- The addition of two prohibited grounds (gender identity and gender expression) added to the *Ontario Human Rights Code* in 2012;
- Alignment with the recently completed review and revisions to the TDSB’s Workplace Harassment Prevention Policy (P034) and corresponding procedures
- Alignment with newly released policies produced by the Ontario Human Rights Commission (i.e., *Policy on Preventing Discrimination and Harassment based on Creed, Policy on Ableism and Discrimination based on Disability, OHRC policy position on sexualized and gender-specific dress codes etc.*);
- Alignment with the TDSB’s Equity Policy; and
- Greater clarity and simplification of the policy for ease of use and navigation

☒ A review of leading practices for similar policies across other school boards has been completed and is included with this Work Plan.

Phase III. INTERNAL REVIEWS AND SIGN-OFFS

The Policy review will include TDSB divisions affected by the Policy:

- ☒ Equity and Achievement
- ☒ Facilities, Sustainability and Employee Services
- ☒ Finance and Operations

In addition, the following departments will be required to sign-off on the proposed Draft Policy:

- ☒ Legal Services
- ☒ Governance and Board Services
- ☒ Government, Public and Community Relations

A sign-off from the Director of Education will be obtained before proceeding with external consultations and/or Committee/Board approval.

- ☒ Director of Education

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Phase IV. EXTERNAL CONSULTATIONS

Are external consultations applicable to this Policy?

☒ Yes

☐ No (*Ministry of Education mandated policy or corporate policy without external stakeholders*)

Mandatory external consultations will include, at a minimum:

1. Posting of the working draft Policy on TDSB website for public feedback (30 days minimum): [September 2017](#)
2. Extending invitations for consultation to all Advisory Committees of the Board and conducting consultations with the Advisory Committees that expressed interest (either individually with each interested committee or collectively with representatives of all interested committees): September 2017
 - ☒ Aboriginal Community Advisory Committee
 - ☒ Alternative Schools Advisory Committee
 - ☒ Black Student Achievement Community Advisory Committee
 - ☒ Community Use of Schools Advisory Committee
 - ☒ Early Years Advisory Committee
 - ☒ Environmental Sustainability Community Advisory Committee
 - ☒ Equity Policy Advisory Committee
 - ☒ French as a Second Language Advisory Committee
 - ☒ Inner City Advisory Committee
 - ☒ Parent Involvement Advisory Committee (PIAC)
 - ☒ Special Education Advisory Committee (SEAC)
 - ☒ Student Nutrition Advisory Committee

In addition to mandatory consultations, other external participants and projected dates of consultation(s) include:

- ☒ Student SuperCouncil
- ☒ School Councils
- ☒ Other: [Union groups consultation](#)

The following methods will be applied in the external consultations:

- ☐ Public meeting
- ☒ Facilitated focus group
- ☐ Call for public delegations
- ☐ Expert panel discussion/round table
- ☐ Survey
- ☒ Posting on the TDSB website

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☒ Other: [Email communication](#)

Phase V. COMMITTEE/BOARD APPROVALS

Following external consultations and revisions, the working draft Policy will be presented to the Governance and Policy Committee on the following date:

To be determined - [November or December 2017, or January 2018](#)

Following recommendation by the Governance and Policy Committee, the revised Policy will be presented to the Board on the following date: [January 2018](#). Once approved, the revised Policy will replace the existing policy on the TDSB website.

Phase VI. IMPLEMENTATION

Following Board approval, the final revised Policy will be communicated through:

- ☒ Posting of the revised Policy on the TDSB website through the Policy Coordinator
- ☒ Sharing with staff through the System Leaders' Bulletin
- ☒ Informing departments at staff meetings and channeling information to the school principals through respective superintendents
- ☒ Implementation of a broad communication plan for internal and external audiences

Policy implementation will include:

- ☒ Conducting information/training sessions to TDSB staff affected by the Policy

January to February 2018

The projected time period for conducting information/training sessions to staff will be:

- ☒ Review of associated procedures or initiate development of new procedures
[Operational procedures are being reviewed concurrently with this Policy under review \(expected operational procedures review completion – June 2017\).](#)

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Appendix C

REVIEW OF OTHER SCHOOL BOARD, JURISDICTION, MUNICIPALITY AND ORGANIZATIONS' POLICIES: HUMAN RIGHTS POLICY (P031)

Summary

The TDSB's current Human Rights Policy (P031) was adopted on May 3, 2000 and was last revised on May 19, 2004. The Ontario *Human Rights Code* holds governing power over Ontario legislation and school board policies and procedures. The Education Act, Ontario Regulations, Ministry of Education Policy/Program Memorandums (PPM) and TDSB policies and procedures are subject to and interpreted through their compliance with the Ontario *Human Rights Code*. The legislative context of this Policy includes:

(i) *Canadian Charter of Rights and Freedoms*

The *Constitution Act [1982]*, which includes the *Canadian Charter of Rights and Freedoms (CCRF)*, is the supreme law of Canada. As such, all other laws and applicable workings of governments, including school boards, must be consistent with its provisions. The charter and Supreme Court of Canada decisions (made under the charter) guarantee everyone equality regardless of race, national or ethnic origin, citizenship, colour, religion, marital status, sex, sexual orientation, age or mental or physical disability.

(ii) *Ontario Human Rights Code*

The provisions of the Ontario *Human Rights Code* (the *Code*) apply to private parties and provincial public institutions. It is public policy in Ontario to recognize the inherent dignity and worth of every person and to provide for equal rights and opportunities without discrimination. The *Code* aims at creating a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and feels able to contribute to the community. Section 1 of the *Code* affirms the right to equal treatment in services without discrimination because of disability. Services include the provision of education. This protection covers publicly funded elementary and secondary schools

Many other TDSB policies are guided by a specific Ministry of Education PPM but in the case of human rights there are a collection of Ministry PPMs that represent human rights issues which direct different TDSB policies. The PPMs that reflect human rights cover topics including equity and inclusive education, school boards code of conduct, school suspension and expulsions or progressive discipline, bullying prevention and intervention, programs for the Deaf, Blind, and Deaf-Blind exceptionalities, learning disabilities, identifying learning needs, health support services, and prevention of different forms of harassment. Although it is not mandatory for school boards to have a human rights policy many boards are required to have policies on the various issues that fall within the grounds of the *Code*.

This scan covers school board policies on the topic of human rights and includes associated policies that represent a school board's commitment to human rights such as, accommodation and/or special

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education, harassment, bullying, and equity. Included in the summary are results from twelve (12) Ontario school boards (see list below). All school boards included in this scan had a policy on harassment (e.g., workplace harassment, bullying prevention, or respectful workplace and learning environments). Three (3) of the twelve school boards had a policy specifically named Human Rights (Bluewater DSB, DSB of Niagara, and Peel DSB).

School boards tend to combine their harassment and human rights policies because with the new legislation the Occupational Health & Safety Act now explicitly covers sexual harassment, which is also covered under the *Code*.

In the future, the TDSB's workplace harassment prevention policy may be merged with the revised Human Rights Policy.

Key Differences - Human Rights Policies

The following list includes key differences amongst three (3) school boards' Human Rights Policies.

(i) Responsibility

The responsibility sections or statements were different in the human rights policies compared in this review. Only one school board (Peel DSB) included volunteers, contractors, permit holders, and visitors in the list of those responsible for upholding human rights. One school board (DSB of Niagara) included students, employees, trustees, and parents. One other board (Bluewater DSB) also included community members in their policy's responsibility statements.

Interestingly, the school board (Peel DSB) that included more people and/or groups in their responsibility section was also the only school board that recognized it was the board's responsibility to support and help *any person* who was harassed regardless of who the alleged offender may be. The Peel DSB explained that it was their responsibility to support those harassed even if the offender was someone with only a casual or infrequent connection to their board or someone over whom the board may have no control.

(ii) Actionable language

One school board's policy (Bluewater DSB) reads with a tone of actionable responsibilities. For example, their policy states "the board will seek out and remove systemic and attitudinal barriers and biases..." and uses phrasing such as "ever vigilant" and "proactive practices". In comparison, another school board's policy (DSB Niagara) stated their commitment to meeting obligations under the CCRF and the OHRC but used less proactive language and included phrasing that spoke to awareness and responsiveness.

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(iii) **Systemic Issues or Barriers**

One important difference in the comparison of policies showed that one school board (Bluewater DSB) made three references to systemic human rights issues including: hiring and promotion practices, offering board wide awareness training, and gaps in and/or discriminatory learning opportunities. The policy commitments from this board were to all human rights issues including those that were systemic. In another board's policy (Peel DSB) it clearly explained that systemic discrimination stemmed from various systems and habits in place over time. Therefore, this board's Human Rights Policy stated it would not be appropriate for the board to investigate complaints of systemic discrimination. However, they could be directed to the Human Rights Tribunal of Ontario.

(iv) **Different support avenues for human rights complaints**

One school board policy (Peel DSB) ensured that the reader was aware that every person has the right to seek assistance from the Human Rights Tribunal of Ontario even when a complaint or issue was being handled under the direction of board policy.

(v) **Locations and situations**

One school board (Peel DSB) clearly outlined all locations and situations where behaviour would be subject to their Human Rights Policy. For example, Peel DSB included in their locations and situations list the following: work-related situations outside of their board facilities, work-related travel, when using technology resources, and when using electronic communications and/or social media.

Key Differences - Prevention of Harassment Policies

The following list includes key differences amongst six (6) school boards' prevention of harassment policies. It is important to include anti-harassment policies in this review because harassing behaviour is encompassed in the definition of discrimination which is strictly prohibited under the *Code*. Therefore, school boards without a Human Rights Policy, but that did have a prevention of harassment policy have been included in this review because of their harassment policy's direct association to preventing discrimination under the *Code*.

(i) **Intended Outcomes**

One school board (Hamilton-Wentworth DSB) stated in its harassment prevention policy that 'incident reduction goals' would be established and that specific targets related to these goals would be identified allowing for strategies to be implemented that reduce workplace violence and harassment. Hamilton-Wentworth DSB also states in their policy that claim statistics (e.g., incident, injury, illness reports) are reviewed and compared annually to meet incident reduction goals.

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(ii) **Working and/or Learning Environments**

All school boards have prevention of harassment policies that are written for their employees and govern harassment prevention in the workplace. However, two school boards (Thames Valley DSB and Waterloo Region DSB) include in their policy not only the working environment but also ‘the learning environment’. Thames Valley DSB states ‘every person within the Thames Valley educational community has a right to work and study in a safe, inclusive and accepting environment, free of harassment...’ and specifically include reference to ‘harassment of students’. Although Waterloo DSB also includes ‘the learning environment’ in their policy the directions for the rights of students are stated to be ‘dealt with under other appropriate legislation, regulations, and Board policy’.

School Boards Scanned

The school boards included in this scan are as follows: Bluewater DSB, Dufferin-Peel Catholic DSB, Hamilton-Wentworth DSB, Ottawa-Carleton DSB, Peel DSB, Simcoe County DSB, Thames Valley DSB, Toronto Catholic DSB, Toronto DSB, Waterloo Region DSB, York Catholic DSB, and York Region DSB.

Health Industry

College of Physicians and Surgeons of Ontario

Their Human Rights Policy articulates for physicians their professional and legal obligations to provide health services without discrimination which includes a duty to accommodate those who may face barriers to accessing care. The policy explains the legal obligations under the *Code* for providing services without discrimination. In comparison, the Ontario College of Teachers does not have a specific policy on Human Rights but does follow a document called *Ethical Standards for the Teaching Profession*. However, for the Ontario College of Teachers there is no mention of the *Human Rights Code*.

Post-secondary Institutions and Municipalities

Summary

Post-secondary institutions included in this review tended to have one ‘umbrella’ Human Rights Policy and also separate policies dedicated to specific human rights issues.

York University

York University (YorkU) recently added the terms “Equity” and “Inclusion” to the mandate and name of their former Centre for Human Rights. York U’s Centre for Human Rights, Equity and Inclusion includes, among others, the following specific Human Rights topics as stand-alone policies:

- Academic Accommodation for Students with Disabilities (Policy)
- Gender Free Language (Policy)
- Physical Accessibility of University Facilities (Policy)

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- Racism (Policy)

They are committed to further developing their Human Rights Policies with the launching of an Antiracism Committee that will work towards eliminating racial barriers and acknowledging the intersection of race with other identities and protected grounds by the *Code*. Related to their policies and procedures, YorkU also provides Case Resolution Services based on provincial legislation and the University's policies and procedures. They promote informal resolutions, mediation or alternative dispute resolutions, and formal complaint investigations.

YorkU also uses its human rights records for annual reporting and statistical purposes while maintaining anonymity and confidentiality. The results in the report are used to improve policy implementation or to enhance their Procedures document.

University of Guelph

Recognized as a respected leader in inclusion, equity, accessibility and human rights practices the University of Guelph (U of Guelph) established their Office of Diversity and Human Rights in 1996 as one of the first in Ontario. U of Guelph also has a Human Rights Advisory Group that advises on human rights complaints by using the university's Human Rights Policy and Procedure.

City of Toronto

The City of Toronto's Human Rights and Anti-Harassment Policy includes expectations to adhere to their policy from any member of the public, including visitors to their City facilities or individuals conducting business with the City of Toronto. They also state that if harassment occurs, the City will consider barring a harasser from its facilities or discontinuing business with contractors or consultants.

Key phrases in the City of Toronto's Human Rights and Anti-Harassment Policy speak to division heads or managers/supervisors as responsible for taking a 'leadership role', 'providing leadership', 'providing training', 'ensuring accountability', 'educating their employees', and 'preventing re-occurrence of discrimination or harassment'.

Their policy also provides information about the Human Rights Office, whereas other policies only mention the Human Rights Office (or staff) as part of the process for investigating a complaint. The details regarding their Human Rights Office assures the public on the staff's provision of advice or proceeding with an investigation that is independent, unbiased, and confidential.



P034, Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy Review: Phase 5

To: Governance and Policy Committee

Date: 2 June, 2021

Report No.: 06-21-4106

Strategic Directions

- Create a Culture for Student and Staff Well-Being
- Allocate Human and Financial Resources Strategically to Support Student Needs
- Build Strong Relationships and Partnerships Within School Communities to Support Student Learning and Well-Being

Recommendation

It is recommended that the revised Workplace Harassment Prevention Policy, renamed the Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034), as presented in this report, be approved.

Context

The current Workplace Harassment Prevention Policy (P034) (the “Policy”) renamed Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (Appendix A, with tracked changes version at Appendix B), is being revised in accordance with the Policy Review Work Plan (Appendix C) approved on April 29, 2020 and the *Occupational Health and Safety Act* which requires school boards to review their policies related to the prevention of workplace harassment and violence annually.

The objective of the revised Policy is to prevent non-Code workplace harassment (i.e. harassment that is not covered by the Board’s Human Rights Policy or the Ontario *Human Rights Code*) from taking place and, where necessary, to investigate and respond to instances, potential instances, and complaints of such behaviour in a fair, timely and effective manner.

As detailed in the Policy Review Work Plan, the proposed content revisions to the Policy are based on the Committee's direction and a review of legislative and operational requirements, including a proposed transferring of responsibility for non-human rights cases away from the Human Rights Office to enable it to better fulfill its mandate across employment and services. Staff also completed a jurisdictional scan of similar policies from other jurisdictions in the Greater Toronto Area (Appendix C).

Revisions to the Policy also considered feedback from various stakeholders received during policy consultations. Policy consultations with the Board's Community Advisory Committees, Student Senate, Federations, Unions, Staff Associations and the wider TDSB community were conducted from February 18, 2021 until May 11, 2021.

The revised Policy is designed to promote a healthy, respectful, and supportive work environment. It highlights conduct that may amount to non-Code workplace harassment and outlines the system's shared responsibility for fostering a harassment-free workplace.

Action Plan and Associated Timeline

Subject to the Governance and Policy Committee's directions, the revised Policy will be presented to the Board of Trustees for consideration and final approval on June 30, 2021. Staff will initiate the review of existing and, as required, development of new operational procedures to support implementation of the revised Policy.

Resource Implications

Additional resources have been allocated to enable Employee Services to take on this new mandate of receiving, managing, investigating, and resolving non-Code based workplace harassment complaints under the *Occupational Health and Safety Act*.

Communications Considerations

Following Board approval, the Policy will be communicated to the system and posted on the Board's public website.

Board Policy and Procedure Reference(s)

- Acceptable Use of Information Technology Resources (P088)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Equity (P037)
- Gender-based Violence (P071)
- Human Rights (P031)
- Occupational Health and Safety (P048)
- Respectful Learning and Working Environment (P073)

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- Workplace Violence Prevention (P072)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Promoting a Positive School Climate (PR697)
- Bullying Prevention and Intervention (PR703)
- Code of On-line Conduct (PR571)
- Complaint Protocol for the Board Member of Conduct (PR708)
- E-mail Usage (PR572)
- Police-School Board Protocol (PR698)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights (PR515)

Appendices

- Appendix A: Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034) – Revised Clean
- Appendix B: Workplace Harassment Prevention for Non-Human-Rights-Code Harassment Policy (P034) – Revised, Changes Tracked
- Appendix C: Policy Review Work Plan and Scan

From

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Irit Kelman, Acting Senior Manager, Human Rights Office at irit.kelman@tdsb.on.ca or 416-393-0502.

Toronto District School Board

Policy P034

Title:	WORKPLACE HARASSMENT PREVENTION FOR NON-HUMAN-RIGHTS-CODE HARASSMENT
Adopted:	November 7, 2002
Effectuated:	November 7, 2002
Revised:	February 16, 2004; November 16, 2011; September 2016; April 19, 2017; June 19, 2019; [insert new date]
Reviewed:	June 2013; October 6, 2015; April 19, 2017; June 19, 2019; [insert new date]
Authorization:	Board of Trustees

1.0 RATIONALE

The Toronto District School Board (the “Board”) is committed to providing a safe, nurturing, positive learning and working environment, free of harassment and discrimination, where every individual is treated with dignity and respect.

This Policy is consistent with the *Occupational Health and Safety Act* (“OHSA”) and the Board’s obligations under the OHSA with regard to workplace harassment that is not covered by the Board’s Human Rights Policy (P031).

2.0 OBJECTIVE

This Policy is designed to promote a healthy, respectful and supportive work environment. It highlights conduct that may amount to non-Code workplace harassment (i.e. harassment that is not covered by the Board’s Human Rights Policy or the *Human Rights Code*) and outlines the system’s shared responsibility for fostering a harassment-free workplace. The goal is to prevent non-Code workplace harassment from taking place and, where necessary, to investigate and respond to instances, potential instances, and complaints of such behaviour in a fair, timely and effective manner.

3.0 DEFINITIONS

Abuse of Authority occurs when a person improperly uses the power and authority inherent in their position to engage in non-Code workplace harassment. This harassment may include, but is not limited to, patterns of the following behaviours:

- undermining the performance of a worker’s job, including unjustifiably withholding information so as to interfere with a worker’s work;
- unnecessarily reprimanding a worker in front of others;

- improperly interfering with or inappropriately influencing a worker's career, inappropriately endangering a worker's job, or threatening to do so; or
- otherwise taking advantage of one's position to harass a worker.

Abuse of authority does not include the appropriate and reasonable exercise of managerial authority in connection with: coaching or counseling, assignment and monitoring of work, performance evaluation or discipline, or other supervisory or leadership functions.

Allegation means an unproven claim or assertion that someone has violated this Policy.

Board means Toronto District School Board, which is also referred to as "TDSB". TDSB is an employer, as defined by the *OHSA*.

Bullying means targeted and typically repeated behaviour (physical, social, verbal, electronic, written or other means) intended to cause harm, fear, isolation, or distress to a worker. Harm may include, for example: physical, psychological, or social harm; or harm to reputation, property or career. Bullying can include creating a negative environment for a worker where there is a real or perceived power imbalance between the parties (for example, based on size, age, strength, academic ability, education, employment position, economic or social status, race, immigrant status, language, ethnic origin, sex, sexual orientation, gender identity, or disability).

Note: Where a protected human rights ground is a factor in the power imbalance, the situation should first be assessed to determine whether the Human Rights Policy (P031) applies, and if not, it may be addressed under this Policy.

Code-Based Harassment means harassment on the basis of a protected ground under Ontario's *Human Rights Code* ("Code") or the Board's Human Rights Policy (P031). The protected grounds are:

- Age
- Ancestry
- Citizenship
- Colour
- Creed (religion, includes Indigenous spiritual practices)
- Disability or perceived disability
- Ethnic origin
- Family status
- Gender expression
- Gender identity
- Marital status (includes single, married and common law, separated, divorced, widowed; includes same and opposite-sex relationships)

Place of origin
 Race
 Sex (includes pregnancy and breastfeeding)
 Sexual orientation
 Record of offences (provincial offences or pardoned federal offences)
 Socio-economic status
 Association with a person identified by a ground listed above

Workplace harassment on the basis of the above grounds is prohibited by both the *Code* and the *OHSA*. *Code*-based workplace harassment, including sexual harassment, falls under the Human Rights Policy (P031), and is not covered under this Policy. The Human Rights Policy also addresses non-workplace harassment on the basis of the protected grounds, as well as discrimination.

Instance includes an incident, conduct, ongoing situation, circumstance, environment, practice, or other event that gives rise to a breach of this Policy. The term “potential instance” refers to knowledge, including based on rumour, report, or reasonable suspicion, that warrants investigation to ascertain whether a violation of this Policy has occurred.

Non-Code Workplace Harassment means a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, and is not based on a protected ground under the Human Rights Policy (P031) or the *Human Rights Code*.

Examples:

Conduct that may constitute non-Code workplace harassment or that could create a poisoned work environment includes, but is not limited to, patterns of the following behaviours:

- Insults; embarrassing, demeaning or intimidating remarks, comments, or gestures; name-calling, yelling, ridiculing, mocking, using abusive language and profanity
- Publicly degrading, shaming, or humiliating; threatening to share embarrassing information
- Gossiping; spreading rumours; exclusion; ignoring; ostracizing
- Workplace jokes or pranks that insult, embarrass, demean, ridicule, or intimidate; hazing
- Displaying or circulating vexatious pictures or materials in print or electronic form, including on-line
- Vexatious phone calls, e-mails, or social media posts
- Deliberately withholding resources or information
- Inappropriate excessive criticism of someone's work

- Vandalism, graffiti
- Intimidating or aggressive behaviour, for example, slamming doors, throwing or breaking objects, physical posturing such as blocking doors or entrance ways (see note below with respect to workplace violence)
- Bullying (see definition at Appendix (A))
- Cyber-bullying – bullying by electronic means, such as by email, messaging, or social media
- Abuse of authority

The impact of these behaviours on an individual will be taken into consideration.

A finding of non-Code workplace harassment generally requires a course or pattern of inappropriate conduct (ie. conduct that has occurred on multiple occasions, over time). However, in exceptional circumstances, a single incident of very serious conduct may amount to non-Code workplace harassment. For example, serious abusive behaviour (verbal or physical as outlined above), especially when engaged in by someone in a position of authority.

Notes:

- Some bullying or threatening behaviours may be more appropriately addressed under the Workplace Violence Prevention Policy (P072) if there is an exercise of physical force that causes or could cause physical injury to the worker, or an attempt or threat to exercise such physical force.
- If the inappropriate behaviours (for example, threatening/harassing) are committed via TDSB electronic devices or email etc., it can also be a violation of the Acceptable Use of Information Technology Resources Policy (P088), E-mail Usage Procedure (PR572) or Code of On-line Conduct Procedure (PR571).
- Discrimination and harassment on the basis of a protected ground under the *Human Rights Code* are addressed under the Human Rights Policy (P031) (see above under “Code-Based Harassment”).

Reasonable action

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not non-Code workplace harassment. A “reasonable action” does not include any of the examples of the behaviours listed above under non-Code workplace harassment. A “reasonable action” may include, but is not limited to, the following examples:

- A supervisor exercising the “right to manage”. For example, a supervisor making unfavourable operational decisions in alignment with operational requirements, Board mandates, or government

ministry directives; providing appropriate direction; or enacting administrative rules. Such action is unlikely to meet the definition of non-Code workplace harassment even if a worker disagrees with the action or the action adversely impacts one or more individuals.

- Performance management activities related to assessing and improving a worker's performance, productivity and effectiveness with the goal of facilitating the worker's success. For example, providing constructive feedback, recommendations and supports to improve worker performance, even if the worker does not agree.
- Discipline. Generally, a worker's concerns regarding discipline are more appropriately addressed through discussion between Employee Services and the worker's union/association/network representative, and/or the appropriate grievance/dispute resolution process, if applicable.

Other Conduct

Other conduct that is typically not non-Code workplace harassment may include, but is not limited to:

- General disagreements among workers (including supervisors).
- General acts of rudeness or incivility. For example, occasionally responding in an abrupt manner, not extending general courtesy like saying please or thank you, or not promptly responding to emails or voice mail.

Poisoned Work Environment for the purpose of this Policy means a work environment that is oppressive, negative, hostile, unwelcoming, or non-inclusive as a result of vexatious behavior that is not based on a protected ground and that is known or ought reasonably to be known to be unwelcome. The vexatious behaviour or conduct does not need to be directed toward a particular person or group. A poisoned work environment may result from a series of incidents or a single serious incident; condonation of such behavior; and/or the failure to remedy and restore the workplace following the incident(s).

Examples:

- A supervisor has yelled at several staff, has acted maliciously, and has been inappropriately punitive. Some staff are afraid of going to work, even those who have not yet been targeted by the conduct.
- A coworker has spread embarrassing gossip about a few coworkers. The supervisor is aware but has not taken the matter seriously. Other

workers are worried they may be targeted next.

Note: A work environment that is poisoned on the basis of a protected ground falls under the Human Rights Policy (P031).

Protected Ground means a protected ground under the Ontario *Human Rights Code* or the Board's Human Rights Policy (P031). See the definition of "Code-Based Harassment".

Reprisal means adverse action or threat of adverse action against an individual that is in retaliation:

- (a) for, in good faith raising concerns or claiming or enforcing a right under this Policy or associated procedure or supporting or assisting someone else to do so;
- (b) for participating in a process to address a matter under this this Policy or associated procedure; or
- (c) on the basis of a belief that the individual has engaged in (a) or (b).

Adverse action in the above definition could include, for example:

- suspending, disciplining or dismissing a worker;
- intimidating or coercing a worker not to report a situation;
- changing a worker's position, shift, work location, work assignments or the nature of their work;
- reducing or changing a worker's hours;
- denying a promotion; or
- harassing a worker.

Supervisor means a person who has charge of a workplace or authority over workers.

TDSB means Toronto District School Board, which is also referred to as the "Board". TDSB is an employer, as defined by the *OHSA*.

Vexatious conduct means conduct that is inappropriate or unnecessary and that a worker reasonably experiences as offensive, embarrassing, humiliating, distressing or demeaning.

Note: This definition incorporates a subjective component—the worker actually experiences the conduct as offensive, embarrassing, humiliating or distressing; and an objective component that considers how such behaviour would generally be reasonably received by an individual in the worker's circumstances.

Vexatious complaint means a complaint that is deliberately false, or that is brought forward without sufficient merit, solely to cause annoyance or distress. It is important to note that there is a difference between a vexatious complaint and

a complaint that is unsubstantiated but that was brought forward based on the complainant's good faith belief that harassment occurred.

Worker means any person included in the definition of "worker" under the *OHS*A including, but not limited to: regular, temporary, and probationary employees; co-op students; and contract employees.

Workplace is defined in the *OHS*A as "any land, premises, location or thing at, upon, in or near which a worker works". For the purpose of this Policy, it also includes any place where individuals perform work or work-related duties or functions. Schools and school-related activities, such as extra-curricular activities and excursions comprise the workplace, as do Board offices and facilities (including eating, lounge or changing areas, and vehicles used for work purposes or on work property). Conferences, workshops, training sessions and staff functions (for example, staff parties and retirement celebrations) also fall within the scope of this Policy.

Regardless of where it occurs, conduct that has work-related consequences may be considered to have occurred in the workplace. Phone calls, electronic messages, and postings on electronic and social media may form part of the workplace, particularly when addressed to a worker or when the content is related to a worker or the workplace.

Workplace Conflict means disagreement, discord, or unfavourable interactions within the workplace between one or more individuals or groups that may result from differing ideas, beliefs, decisions, goals or values related directly to their job or organization. Workplace conflict can also result from individuals just not "getting along". This is sometimes referred to as a "personality conflict".

Causes of workplace conflict may include, but are not limited to:

- competing for limited resources;
- conflict between personal and departmental or organizational goals;
- differing expectations of productivity levels or work performance;
- disagreement on how to achieve organizational or team goals;
- lack of role clarity;
- organizational change;
- poor or ineffective communication; or
- individual differences in opinions, thoughts, communication styles, or life/work styles (personality conflict).

Workplace conflict is a natural occurrence and is not always negative. It is not, in and of itself, harassment. Whether and how workplace conflict is managed determines whether it has an adverse or positive effect on individuals, groups or the workplace. Conflict

appropriately managed can signal the need for change leading to process improvements, higher productivity or improved service delivery. Unresolved conflict or conflict not appropriately managed can lead to a decrease in productivity, increased stress, and absenteeism. If left unchecked, it can ultimately lead to harassing behaviours or a poisoned work environment.

4.0 RESPONSIBILITY

The Director of Education holds primary responsibility for implementation of this Policy.

Within the Director's Office, the responsibility for coordination and day-to-day management of the Policy is assigned to the Associate Director, Leadership, Learning and School Improvement and the Executive Superintendent, Employee Services.

5.0 APPLICATION AND SCOPE

This Policy addresses workplace harassment under the *OHS*A that is not covered by the Board's Human Rights Policy (P031), that is, workplace harassment that is not based on a protected ground under the *Human Rights Code* or Human Rights Policy (P031). It applies to all TDSB workers and addresses non-*Code* workplace harassment from all sources, including supervisors, workers, trustees, students, parents, suppliers, and members of the public.

Code-based harassment and discrimination, including sexual harassment, fall under the Human Rights Policy (P031), and are not covered under this Policy. The Board also has policies and procedures in place to deal with other forms of harassment or harmful conduct. See section 10.0 for a list of other relevant policies and procedures.

6.0 POLICY

6.1 The Board is committed to respectful, equitable employment practices through the prevention of all forms of non-*Code* workplace harassment. The Board will not tolerate, condone or ignore non-*Code* workplace harassment in its schools, facilities and other workplaces.

6.2 All workers are responsible for creating, maintaining, and contributing to a climate of understanding and mutual respect for the rights and dignity of each person. All workers are required to do the following:

- (a) Do not engage in non-*Code* workplace harassment, the creation of a poisoned work environment, or reprisal.
- (b) Cooperate fully in appropriate attempts under this Policy or

- associated procedure to address a situation or complaint.
- (c) Cooperate fully in the investigation of a situation or complaint under this Policy and associated procedure.
- (d) Do not make a vexatious complaint.
- (e) Do not purposefully or recklessly provide false or misleading statements or information to an investigator investigating a matter under this Policy.
- (f) Maintain confidentiality in accordance with the procedure made pursuant to this Policy.

6.3 The Board will promote a healthy, respectful and supportive work environment by providing:

- (a) information and instruction on how to prevent and respond to non-*Code* workplace harassment, a poisoned work environment, and reprisal, including by sharing this Policy and the associated procedure with all workers;
- (b) an environment that encourages reporting all instances of harassment; and
- (c) a process to handle and investigate non-*Code* workplace harassment, poisoned work environment, and reprisal instances, potential instances, and complaints in a manner appropriate in the circumstances, through this Policy and the associated procedure.

6.4 Supervisors are responsible for not only their own conduct, but also for addressing the conduct of those under their supervision. To prevent non-*Code* workplace harassment, poisoned work environment, and reprisal and to address instances, potential instances, and complaints, management will do the following:

- (a) Lead by example by not engaging in, tolerating or condoning non-*Code* workplace harassment, a poisoned work environment, or reprisal.
- (b) Make all reasonable efforts to protect workers from all forms of harassment by maintaining a work environment that is respectful.
- (c) Post this Policy and associated procedure in a conspicuous location in the workplace, where it would be likely to come to workers' attention, and make the Policy and procedure available to workers (electronically or by hard copy).
- (d) Be aware and knowledgeable of this Policy and associated procedure.
- (e) Educate or provide educational opportunities for workers to ensure they are aware that harassment will

not be tolerated, and that they understand their rights and responsibilities as they relate to this Policy and associated procedure.

- (f) Take all instances, potential instances, and complaints of non-*Code* workplace harassment, poisoned environment, and reprisal seriously by promptly:
 - (i) intervening when it occurs or is suspected to have occurred;
 - (ii) investigating allegations, instances, potential instances, and complaints of non-*Code* workplace harassment, poisoned environment and reprisal in a manner appropriate in the circumstances, in accordance with this Policy, associated procedure and the *OHS*A;
 - (iii) making inquiries or consulting with other Board departments, as appropriate, to assist in effectively managing allegations, instances, potential instances, and complaints; and
 - (iv) taking remedial and/or disciplinary action, with any person found to have engaged in conduct in violation of this Policy. Remedial action may include, but is not limited to, training and education or other actions as deemed appropriate in the circumstances. Remedial action for workers is taken in consultation with Employee Services. Remedial action for persons who are not workers is taken after consultation with the Legal Services Department and/or Safe Schools Department and/or applicable superintendent, as appropriate, and may entail, but is not limited to, denial of access to Board premises or issuance of trespass notices.

6.5 All workers, including those who witness, are encouraged to report non-*Code* workplace harassment, a poisoned work environment, or reprisal to the appropriate person (typically one's supervisor or the next level supervisor not involved or implicated) in accordance with the procedure made pursuant to this Policy. Reprisal against workers is prohibited (please see above definition of "reprisal").

6.6 Any person who makes a complaint of non-*Code* workplace harassment, poisoned work environment, or reprisal or who manages or participates in a process to address and/or resolve a matter under this Policy, will adhere to the confidentiality provisions set out in the procedure made pursuant to this Policy.

6.7 Action may be taken with any worker who fails to abide by the requirements set out in this Policy, including but not limited to remedial action or discipline, up to and including termination of employment.

- 6.8** This Policy must be interpreted harmoniously with the spirit and intent of the *Human Rights Code*, and the Board's Human Rights Policy (P031) and Equity Policy (P037), and will not be interpreted or applied in a manner that undermines the values or rights reflected in them.

Example: A person experiencing racism from another worker isolates themselves away from that person, and avoids speaking to them. They also warn another racialized worker about that person's racism. This reaction to experiencing racism is not workplace harassment. While the ideal circumstance is for all TDSB supervisors to be approachable and responsive so that workers experiencing racism can address such matters through them, workers should not be penalized when they feel unable to do so or when such efforts fail and other strategies are employed.

- 6.9** ADDRESSING INCIDENTS OF SUSPECTED HARASSMENT
Workers should refer to the procedure created pursuant to this Policy for information on addressing situations or complaints of suspected non-Code workplace harassment, poisoned work environment, and reprisal.

7.0 EVALUATION

This Policy will be reviewed as required, but at least annually, in accordance with the *OHSA*

8.0 APPENDICES

Not Applicable

9.0 SPECIFIC DIRECTIVES

The Director will issue an operational procedure to implement this Policy, including setting out the process for addressing incidents or complaints of suspected non-Code workplace harassment, poisoned work environment, and reprisal.

10.0 REFERENCE DOCUMENTS

Policies:

- Acceptable Use of Information Technology Resources (P088)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Equity (P037)
- Gender-Based Violence (P071)
- Human Rights (P031)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Respectful Learning and Working Environment (P073)
- Workplace Violence Prevention (P072)

Procedures:

- Board Code of Conduct (PR585)
- Bullying Prevention and Intervention (PR703)
- Code of On-line Conduct (PR571)
- Complaint Protocol for the Board Member of Conduct (PR708)
- E-mail Usage (PR572)
- Police-School Board Protocol (PR698)
- Sexual Misconduct by Students (PR608)
- Workplace Harassment Prevention and Human Rights (PR515)

Legislative Acts:

- *Education Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*

Toronto District School Board

Policy P034

Title: WORKPLACE HARASSMENT PREVENTION FOR NON-HUMAN-RIGHTS-CODE HARASSMENT

Title: WORKPLACE HARASSMENT PREVENTION

Adopted: November 7, 2002

Effectuated: November 7, 2002

Revised: February 16, 2004; November 16, 2011; September 2016;

April 19, 2017; June 19, 2019; [insert new date]

Reviewed: June 2013; October 6, 2015; April 19, 2017; June 19, 2019; [insert new date]

Authorization: Board of Trustees

1.0

RATIONALE

The Toronto District School Board (the “Board”) is committed to providing a safe, nurturing, positive learning and working environment, free of harassment and discrimination, where every individual is treated with dignity and respect.

This ~~Policy~~policy is consistent with the *Occupational Health and Safety Act* (“~~OHSA~~”) and ~~It is intended to comply with~~ the Board’s obligations under the *OHSA with regard to workplace harassment that is not covered by* and ~~to support~~ the Board’s *Human Rights Policy (P031). Values and Respectful Learning and Working Environment Policy (P073).*

2.0 OBJECTIVE

This ~~Policy~~policy is designed to promote a healthy, respectful and supportive ~~work~~working and learning environment. ~~It highlights conduct that may amount to~~ non-Code workplace harassment (i.e. harassment that is not covered by the Board’s Human Rights Policy or the Human Rights Code) and as well as outlines the system’s shared responsibility ~~for~~in fostering a harassment-free workplace. ~~The goal is to prevent~~ non-Code workplace harassment from taking place and, where necessary, to investigate and respond to instances, potential instances, and incidents/complaints of such ~~behaviour~~behavior in a fair,

timely and effective manner.

3.0

DEFINITIONS

Abuse of Authority occurs when a person improperly uses the power and authority inherent in their position to engage in non-Code workplace harassment. This harassment may include, but is not limited to, patterns of the following behaviours:

- undermining the performance of a worker's job, including unjustifiably withholding information so as to interfere with a worker's work;
- unnecessarily reprimanding a worker in front of others;
- improperly interfering with or inappropriately influencing a worker's career, inappropriately endangering a worker's job, or threatening to do so; or
- otherwise taking advantage of one's position to harass a worker.

Abuse of authority does not include the appropriate and reasonable exercise of managerial authority in connection with: coaching or counseling, assignment and monitoring of work, performance evaluation or discipline, or other supervisory or leadership functions.

Allegation ~~means~~ is an unproven claim or assertion that someone has violated ~~done something wrong based on one's belief that a violation of this Policy~~ policy ~~has occurred.~~

~~Alternative Dispute Resolution (ADR) is a voluntary, confidential process in which parties of a dispute or disagreement can come to a mutual understanding/agreement to resolve their differences. This can involve a facilitated discussion (mediation) among parties with a neutral third party facilitator.~~

Board ~~means~~ is the Toronto District School Board, which is ~~(also referred to as "TDSB").~~ The TDSB is an employer, as defined by the OHSA.

Bullying ~~means~~ ~~targeted~~ ~~is~~ ~~aggressive~~ and typically repeated behaviour (physical, social, verbal, electronic, written or other means) intended to cause harm, fear, isolation, or distress to a worker. Harm may include, for example: ~~(e.g., physical, psychological, or social harm; or harm to , academic), fear or distress to another individual or to the individual's reputation, or property or career. Bullying can.~~ ~~It could also~~ include creating a negative environment for a worker ~~another individual~~ where there is a real or perceived power imbalance between the parties (for example, based on one's size, age, strength, academic ability, education, employment position, intelligence, group affiliation, economic or social status, race, immigrant colour, ancestry, religion, citizenship, marital status,

language, ethnic origin, ~~sexplace of origin, family circumstance,~~ sexual orientation, gender, ~~gender identity, orgender expression,~~ disability), ~~or receipt of special education.~~

Note: Where a protected human rights ground ~~Conduct that may constitute bullying includes,~~ **but is a factor in not limited to the power imbalance,** ~~following:~~

- ~~Physical — tripping, hitting, pushing, slapping~~
- ~~Verbal — name-calling, mocking, insults or racist, homophobic, transphobic comments~~
- ~~Social — gossiping, spreading rumours, exclusion, public humiliation, ignoring, graffiti~~
- ~~Cyber-bullying (bullying by electronic means) — creating a web page or blog, assuming the situation should first identity of another person; posting messages on the internet pretending to be assessed to determine whether the Human Rights Policy (P031) applies, and if not, it another person; communicating material electronically to more than one individual or posting offensive material on a website that may be addressed accessed by one or more individuals~~

~~Complainant is anyone who makes a complaint under this Policy.~~

Code-Based Harassment means harassment on the basis of a protected ground under Ontario's *Human Rights Code* ("Code") or the Board's Human Rights Policy (P031). The protected grounds are:

Age
Ancestry
Citizenship
Colour
Creed (religion, includes Indigenous spiritual practices)
Disability or perceived disability
Ethnic origin
Family status
Gender expression
Gender identity
Marital status (includes single, married and common law, separated, divorced, widowed; includes same and opposite-sex relationships)
Place of origin
Race
Sex (includes pregnancy and breastfeeding)
Sexual orientation
Record of offences (provincial offences or pardoned federal offences)
Socio-economic status
Association with a person identified by a ground listed above

Workplace harassment on the basis of the above grounds is prohibited by both the Code

and the OHSA. Code-based policy, alleging that workplace harassment, including sexual harassment, falls under the ~~has occurred.~~

~~Human Rights Policy (P031). Office (HRO) is an office within the TDSB, that is neutral and is not unbiased and is a resource to all covered under this Policy. The Human Rights Policy also addresses non-workplace harassment policy. The HRO upholds the Board's policies on the basis of the protected grounds, as well as harassment and discrimination, as well as the associated laws (e.g., Occupational Health & Safety Act, Ontario Human Rights Code).~~

~~Poisoned Work Environment is a negative working environment created by a form of harassment. The harassment may include inappropriate comments, behaviour, or display of offensive material which has an adverse impact on an individual or a group. The comment or behaviour is typically repetitive in nature and happens over an extended period of time; however, one incident (if serious enough) can poison a work environment and have lasting effects on an individual/group beyond the original incident(s). The offending behaviour or conduct does not have to be directed towards any person or group in particular.~~

Conduct that may create a poisoned work environment includes, but is not limited to the following:

- ~~• Repeated yelling and swearing openly in the working environment (does not have to be directed at anyone in particular)~~
- ~~• Display of inappropriate, offensive (including sexist/homophobic) material (pin-ups, posters, graffiti etc.)~~
- ~~• Repeated inappropriate comments, open discussions or jokes of a sexual nature~~
- ~~• Bullying behaviours (repeated taunting, insults, and other inappropriate behaviour intended to cause distress in another person or publically shame, humiliate or degrade). With bullying, there is usually a difference in power.~~
- ~~• Condoning harassing or discriminatory behaviours~~

~~**Reprisal** is any harassment, intimidation, threats, or discipline against a person (e.g., complainant, respondent, witness, investigator) for making a report to the Board regarding an incident/complaint of alleged harassment/discrimination. It can also include retaliation against someone who has participated in or is believed to have participated in a process to address a matter under this policy and associated procedure.~~

- ~~• **Respondent** is anyone who has a complaint made against them under this policy.~~

~~**Supervisor** is a person who has charge of a workplace or authority over workers, in accordance with the OHSA.~~

~~TDSB is the Toronto District School Board, which is also referred to as the “Board”.~~

~~**Vexatious** is conduct that is inappropriate, unnecessary and that a reasonable person would consider offensive, distressing or demeaning. Vexatious complaints are complaints that are brought forward without sufficient merit, solely to cause annoyance or distress.~~

~~**Worker** (for the purpose of this policy) is any person included in the definition of “worker” under the OHSA including, but not limited to regular, temporary, probationary employees, co-op students and contract employees.~~

~~Workplace under the OHSA is any land, premises, location or thing at, upon, in or near which a worker works. For the purpose of this policy it also includes any place where individuals perform work or work-related duties or functions. Schools and school-related activities, such as extra-curricular activities and excursions comprise the workplace, as do Board offices and facilities (including eating, lounge/changing areas and vehicles used for work purposes or on work property). Conferences, workshops, training sessions and staff functions (e.g., staff parties, retirement celebrations) also fall within the scope of this policy.~~

~~**Workplace Conflict** is negative or unfavourable interaction within the workplace between one or more individuals or groups that results from differing ideas, beliefs, decisions, goals or values related directly to their job/organization. Workplace conflict can also result from individuals just not “getting along.” This is sometimes referred to as “Personality Conflicts.”~~

~~**Causes of workplace conflict may include, but are not limited to the following:**~~

- ~~• Competing for limited resources~~
- ~~• Conflict between personal and departmental/organizational goals~~
- ~~• Differing expectations of productivity levels/work performance~~
- ~~• Disagreement on how to achieve organizational or team goals~~
- ~~• Lack of role clarity~~
- ~~• Organizational change~~
- ~~• Poor/ineffective communication~~
- ~~• Individual differences in opinions, thoughts or life/work styles (personality conflict)~~

~~**Workplace conflict is a natural occurrence and is not always negative.** It is not in and of itself, harassment. How workplace conflict is managed (or not), determines whether it has an adverse or positive effect on individuals/groups.~~

~~**Positive Effects of workplace conflict**~~

Conflict appropriately managed can signal the need for change leading to process improvements, higher productivity or improved service delivery.

Adverse **Instance** includes an incident, conduct, ongoing situation, circumstance, environment, practice, or other event that gives rise to a breach of this Policy. The term “potential instance” refers to knowledge, including based on rumour, report, or reasonable suspicion, that warrants investigation to ascertain whether a violation of this Policy has occurred.

Non-Code Effects of workplace conflict

~~Unresolved conflict or conflict not appropriately managed can lead to a decrease in productivity, increased stress and absenteeism.~~

~~Matters relating to workplace conflict should be addressed as soon as possible with the support of a supervisor (or next level supervisor if the supervisor is involved in the conflict) and the union/association/network or other representative, if applicable.—Consideration should be given to the appropriateness for the conflict to be addressed through mediation/alternative dispute resolution, with the support of a third party mediator. Open communication is very important.~~

Workplace Harassment ~~means~~is engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, and is not based on a protected ground under the Human Rights Policy (P031) or the Human Rights Code.~~or is workplace sexual harassment.~~

Examples:

~~Workplace Sexual Harassment is engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.~~

Conduct that may constitute non-Code workplace harassment or that could create a poisoned work environment includes, but is not limited to, patterns of the following behaviours:

- Insults; embarrassing, demeaning or intimidating remarks, comments, or gestures; name-Verbally abusive behaviour—ongoing name calling, yelling, ridiculing, mocking, remarks or insults that demean, using abusive language and profanity

- Publicly degrading, shaming, or humiliating; threatening to share embarrassing information
- Gossiping; spreading rumours; exclusion; ignoring; ostracizing
- ~~Ongoing offensive gestures or comments~~
 - Workplace jokes or pranks that ~~result in insult, embarrass, demean, ridicule, or intimidate; hazing or embarrassment~~
 - Displaying or circulating vexatious pictures or materials in print or electronic form, including on-line
 - Vexatious phone calls, e-mails, or social media posts
 - Deliberately withholding resources or information
 - Inappropriate excessive criticism of someone's work
 - Vandalism, graffiti, ~~hazing~~
- ~~Gossiping or spreading malicious rumours that adversely impact individuals/groups~~
- ~~Persistent ostracizing or persistent exclusion of an individual/group~~
- ~~Ongoing public humiliation or shaming~~
- **Intimidating or aggressive behaviour, for example, behaviours:**
 - ~~Physical~~ – slamming doors, throwing or breaking objects, physical posturing such as – blocking doors or /entrance ways (see note below with respect to workplace violence), ~~mocking~~
 - ~~Verbal~~ – persistent shouting, use of profanities or other verbally abusive behaviour (as outlined above)
 - ~~Inappropriate use of electronic devices – threatening messages etc.~~
 - Bullying (see definition at Appendix (A))
 - ~~including~~ Cyber-bullying – bullying by, which occurs through use of electronic means, such as by email, messaging, or communication e.g., e-mail, social media
 - Abuse of Authority ~~(utilizing one's authority over another in a manner outlined as abusive or intimidating, as noted above).~~

The impact of these behaviours on an individual will be taken into consideration.

Note:

~~A finding of non-Code~~ workplace harassment generally requires a course or pattern of inappropriate conduct (ie. conduct that has occurred on multiple occasions, over time). However, in exceptional circumstances, a single incident of very serious conduct may amount to non-Code workplace harassment. For example, serious abusive behaviour (verbal or physical as outlined above), especially when engaged in by someone in a position of authority.

Notes:

- ~~Some bullying or threatening behaviours may be more appropriately addressed covered under the Workplace Violence Prevention Policy (P072); if there is an exercise of physical force that causes or could cause physical injury to the worker, threats or bullying involves actions that result in physical harm or an attempt or threat to exercise such~~ Some bullying or threatening behaviours may be more appropriately addressed under the Workplace Violence Prevention Policy (P072); if there is an exercise of physical force that causes or could cause physical injury to the worker, threats or bullying involves actions that result in physical harm or an attempt or threat to exercise such ~~in~~ in ~~physical~~ physical ~~force.~~ force.
- ~~harm on a worker in the workplace.~~ If the inappropriate behaviours (for example, threatening/harassing) are committed via TDSB electronic devices or email etc., it can also be a ~~in~~ violation of the Acceptable Use of Information Technology Resources Policy (P088), E-mail Usage Procedure (PR572) or Code of On-line Conduct Procedure (PR571).

Discrimination and

Conduct that may constitute workplace sexual harassment on includes, but is not limited to patterns of the basis of following behaviours:

- ~~Sexually suggestive or obscene remarks or gestures~~
- ~~Bragging about sexual prowess or discussing sexual activities~~
- ~~Displaying sexualized pin-ups, screensavers, messages etc.~~
- ~~Circulating, telling or participating in sexual jokes, communications etc.~~
- ~~Negative/stereotypical comments/jokes based on gender, sex, sexual orientation, gender identity, gender expression~~
- ~~Gender-related comments about an individual's physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms~~
- ~~Leering (inappropriate suggestive staring at a~~ protected ground under ~~person's body)~~
- ~~Sexual advance or "solicitation" for a sexual relationship, especially if in a position of power over the individual (able to confer, grant or deny a benefit to them). This may include a supervisor making advances towards a worker or a worker/supervisor making advances towards a contractor~~

A finding of Human Rights Code are addressed under ~~workplace harassment (including workplace sexual harassment), generally requires a course or established pattern of inappropriate conduct; however, in exceptional circumstances a single incident of very serious conduct may amount to workplace harassment.~~

~~Conduct that may be considered "single incident" workplace harassment (including workplace sexual harassment), includes, but is not limited to the~~ Human Rights Policy (P031) ~~(see following behaviours:~~

- ~~Inappropriate/unwanted touching of a sexual nature~~
- ~~Serious abusive behaviour (verbal or physical as outlined above under "Code-Based Harassment").~~ Serious abusive behaviour (verbal or physical as outlined above under "Code-Based Harassment"). ~~, especially when engaged in by someone in~~

~~a position of authority~~

Reasonable action

~~The OHSA also outlines that workplace harassment is not the following:—~~

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not non-Code workplace harassment. A “reasonable action” does not include any of the examples of the behaviours listed above under non-Code workplace harassment. A “reasonable action” may include, but is not limited to, the following examples:

A supervisor Examples of “a reasonable action” and other conduct that is typically not workplace harassment may include, but is not limited to:

- ~~Supervisor~~ exercising the “right to manage”. For example, (e.g., a supervisor making unfavourable operational decisions in alignment with operational requirements, Board mandates, or government ministry directives; providing appropriate direction; or enacting administrative rules. Such action is unlikely to meet the definition of non-Code workplace harassment even if a worker disagrees with the action or the action adversely impacts one or more individuals. Ministry directives)
- ~~—~~ Performance management activities related to assessing and improving a worker’s performance, productivity and effectiveness with the goal of facilitating the worker’s success. For example, (e.g., providing constructive feedback, recommendations and supports to improve worker performance, even if the worker does not agree.)
- Discipline. ~~(Generally, a worker’s concerns regarding discipline -are more appropriately addressed through discussion between the Employee Services Department and the worker’s union/association/network representative, and/or -the appropriate grievance/dispute resolution process, if applicable.)~~

Other Conduct

Other conduct that is typically not non-Code workplace harassment may include, but is not limited to:

- ~~— General disagreement with supervisory direction, feedback, operational changes, administrative rules etc., which adversely impact one or more individuals~~

- General disagreements among workers (including supervisors).}
- General acts of rudeness or incivility. For example, {e.g., occasionally responding in an abrupt manner, not extending general courtesy like saying please or thank you, or not promptly responding to emails or voice mail.}

Poisoned Work Environment for the purpose of this Policy means a work environment that is oppressive, negative, hostile, unwelcoming, or non-inclusive as a result of vexatious behavior that is not based on a protected ground and that is known or ought reasonably to be known to be unwelcome. The vexatious behaviour or conduct does not need to be directed toward a particular person or group. A poisoned work environment may result from a series of incidents or a single serious incident; condonation of such behavior; and/or the failure to remedy and restore the workplace following the incident(s).

Examples:

- A supervisor has yelled at several staff, has acted maliciously, and has been inappropriately punitive. Some staff are afraid of going to work, even those who have not yet been targeted by the conduct.
- A coworker has spread embarrassing gossip about a few coworkers. The supervisor is aware but has not taken the matter seriously. Other workers are worried they may be targeted next.

Note: A work environment that is poisoned on the basis of a protected ground falls under the Human Rights Policy (P031).

Protected Ground means a protected ground under the Ontario *Human Rights Code* or the Board's Human Rights Policy (P031). See the definition of "Code-Based Harassment".

Reprisal means adverse action or threat of adverse action against an individual that is in retaliation:

- (a) for, in good faith raising concerns or claiming or enforcing a right under this Policy or associated procedure or supporting or assisting someone else to do so;
- (b) for participating in a process to address a matter under this this Policy or associated procedure; or
- (c) on the basis of a belief that the individual has engaged in (a) or (b).

~~Adverse~~ action in the above definition could include, for example:

- suspending, disciplining or dismissing a worker;
- intimidating or coercing a worker not to report a situation;

- changing a worker's position, shift, work location, work assignments or the nature of their work;
- reducing or changing a worker's hours;
- denying a promotion; or
- harassing a worker.

Supervisor means a person who has charge of a workplace or authority over workers.

TDSB means Toronto District School Board, which is also referred to as the "Board". TDSB is an employer, as defined by the *OHSA*.

Vexatious conduct means conduct that is inappropriate or unnecessary and that a worker reasonably experiences as offensive, embarrassing, humiliating, distressing or demeaning.

Note: This definition incorporates a subjective component—the worker actually experiences the conduct as offensive, embarrassing, humiliating or distressing; and an objective component that considers how such behaviour would generally be reasonably received by an individual in the worker's circumstances.

Vexatious complaint means a complaint that is deliberately false, or that is brought forward without sufficient merit, solely to cause annoyance or distress. It is important to note that there is a difference between a vexatious complaint and a complaint that is unsubstantiated but that was brought forward based on the complainant's good faith belief that harassment occurred.

Worker means any person included in the definition of "worker" under the *OHSA* including, but not limited to: regular, temporary, and probationary employees; co-op students; and contract employees.

Workplace is defined in the *OHSA* as "any land, premises, location or thing at, upon, in or near which a worker works". For the purpose of this Policy, it also includes any place where individuals perform work or work-related duties or functions. Schools and school-related activities, such as extra-curricular activities and excursions comprise the workplace, as do Board offices and facilities (including eating, lounge or changing areas, and vehicles used for work purposes or on work property). Conferences, workshops, training sessions and staff functions (for example, staff parties and retirement celebrations) also fall within the scope of this Policy.

Regardless of where it occurs, conduct that has work-related consequences may be considered to have occurred in the workplace. Phone calls, electronic messages, and postings on electronic and social media may form part of the workplace, particularly

when addressed to a worker or when the content is related to a worker or the workplace.

Workplace Conflict means disagreement, discord, or unfavourable interactions within the workplace between one or more individuals or groups that may result from differing ideas, beliefs, decisions, goals or values related directly to their job or organization. Workplace conflict can also result from individuals just not “getting along”. This is sometimes referred to as a “personality conflict”.

~~Causes of workplace conflict may include, but are not limited to:~~

- competing for limited resources;
- conflict between personal and departmental or organizational goals;
- differing expectations of productivity levels or work performance;
- disagreement on how to achieve organizational or team goals;
- lack of role clarity;
- organizational change;
- poor or ineffective communication; or
- individual differences in opinions, thoughts, communication styles, or life/work styles (personality conflict).

~~Workplace conflict is a natural occurrence and is not always negative.~~ It is not, in and of itself, harassment. Whether and how workplace conflict is managed determines whether it has an adverse or positive effect on individuals, groups or the workplace. Conflict appropriately managed can signal the need for change leading to process improvements, higher productivity or improved service delivery. Unresolved conflict or conflict not appropriately managed can lead to a decrease in productivity, increased stress, and absenteeism. If left unchecked, it can ultimately lead to harassing behaviours or a poisoned work environment.

4.0 ~~While the conduct may be considered undesirable, it typically does not meet the definition of workplace harassment. A “reasonable action” by a supervisor does not include any of the examples of the behaviours listed under workplace harassment.~~

RESPONSIBILITY

The Director of Education holds primary responsibility for implementation of this Policy.

Within the Director’s Office, the responsibility for coordination and, day-to-day management of the Policy is assigned to the Associate Director, Leadership, Learning and School Improvement and the Executive Superintendent, ~~Human~~

rights and Indigenous Education-
Employee Services.

5.0

APPLICATION AND SCOPE

This ~~Policy~~policy addresses workplace harassment under the OHSA that is not covered by the Board's Human Rights Policy (P031), that is, workplace harassment that is not based on a protected ground under the Human Rights Code or Human Rights Policy (P031). ~~It~~and applies to all TDSB workers and within the meaning of the OHSA. It addresses non-Code workplace harassment from all sources, including supervisors, workers, trustees, students, parents, suppliers, and members of the public.

Code-based harassment and discrimination, including sexual harassment, fall under the Human Rights Policy (P031), and are not covered under this Policy.

The Board also has policies and /procedures in place to deal with other forms of harassment or harmful~~offensive~~ conduct, ~~including the Reporting of Suspected Wrongdoing (Whistleblowing) Policy (P066), Human Rights Policy (P031), Board Member Code of Conduct Policy (P075), Gender-Based Violence Policy (P071), Caring and Safe Schools Policy (P051), Dealing with Abuse and Neglect of Students Policy (P045), Workplace Harassment Prevention and Human Rights (PR515), Board Code of Conduct Procedure (PR585) and the Bullying Prevention and Intervention Procedure (PR703).~~ See section 10.0 for a complete list of other relevant policies and procedures~~procedure~~.

6.0 POLICY

~~6.1~~6.1 The Board is committed to respectful, equitable ~~service delivery and~~ employment practices through the prevention of all forms of non-Code workplace harassment, ~~(including workplace sexual harassment).~~ The Board will not tolerate, condone or ignore non-Code workplace harassment in its schools, facilities and other workplaces.

~~6.2~~6.2 All workers are responsible for creating, maintaining, ~~All workers are encouraged to report workplace harassment to the appropriate person in accordance with procedures made pursuant to this policy. Workers will not be penalized for reporting (in good faith) an incident, making a complaint or for participating in an investigation under to this policy. Reprisal is prohibited under this policy and the OHSA. See section 6.9 (a) regarding vexatious complaints.~~

~~6.3~~ Any person reporting an incident or complaint of workplace harassment or who participates in a process to resolve a matter under this policy (including investigators), will keep that information confidential and not disclose or release to anyone any information about the

~~incident/complaint except to the extent necessary to protect a worker(s), to investigate the complaint/incident, to take corrective action or as otherwise required by law. This extends to details of a complaint (including its existence), meetings about an incident/complaint, identifying information about a person including names of witnesses, contact made with an investigator etc. This is a continuous obligation that extends beyond employment with the TDSB. Seeking advice from a worker's own union/association representatives in addressing workplace harassment is permitted, and may be required by some Collective Agreements.~~

~~6.4 This is a continuous obligation that extends beyond employment with the TDSB. Seeking advice from a worker's own union/association representatives in addressing workplace harassment is permitted, and may be required by some Collective Agreements.~~

~~All persons covered under this policy are responsible for creating, maintaining and contributing to a climate of understanding and mutual respect for the rights and dignity of each person. All workers are required to do by doing the following:~~

- ~~(a) Do not engage in non-Code behavior that is or may be perceived as workplace harassment;~~
- ~~(b) If comfortable, advise the creation of a poisoned alleged harasser that the conduct is unwelcome and ask that person to stop;~~
 - ~~(a) If approached as per the above, it is expected that the individual will work environment, or reprisal with the person raising a concern, to resolve the matter;~~
 - ~~(b) Cooperate fully in appropriate attempts under this Policy or associated procedure to address a situation or complaint.~~
- ~~(c) If an individual is not comfortable approaching the alleged harasser or an individual is approached and the behaviour does not stop, report incidents of workplace harassment to a Supervisor or the Human Rights Office (workers can also seek help addressing workplace harassment through their respective union/association, the TDSB Employee and Family Assistance Program, or other resources as outlined in the associated procedures);~~
 - ~~(b)(c) Cooperate fully in any attempts to resolve an incident or complaint and cooperate fully in the investigation of a situation any incident or complaint under this Policy and associated procedure.policy;~~
 - ~~(d) Do not make a vexatious complaint.~~
 - ~~(e)(e) Do not purposefully knowingly or recklessly provide false or misleading statements or information to an investigator investigating a matter under this Policy.policy;~~
 - ~~(e)(f) Maintain confidentiality in accordance with the procedure made pursuant with respect to incidents/complaints of matters relating to this Policy policy and associated procedures.~~

~~6.5~~ **6.3** ~~The Board recognizes that general acts of rudeness/incivility by any worker, or less than optimal management styles are behaviours that are not desirable in the workplace and may adversely impact one or more individuals; however, these behaviours are not typically workplace harassment. They are concerning, however, and should be addressed through a supervisor or if a supervisor is involved in the undesirable behaviour, through the next level supervisor. Workers who are unionized or otherwise represented, should contact their respective union/association or network representative to work together with the supervisor (or next level supervisor as per above), to address the concerns. Consideration should also be given to whether the services of a third party mediator may be appropriate in the circumstances. If these behaviours are left unchecked, they can potentially lead to workplace conflict, harassing behaviours or ultimately, a poisoned work environment.~~

The Board will promote a healthy, respectful and supportive work environment by providing:

- (a) ~~information~~ information and instruction on how to prevent and respond to non-Code ~~the prevention of~~ workplace harassment, a poisoned work environment, and reprisal, including by sharing through this Policy ~~policy~~ and the associated procedure, ~~to be shared~~ with all workers;
- (b) ~~an~~ An environment that encourages reporting all instances ~~incidents~~ of harassment; and
- (c) ~~a~~ A process to handle and investigate non-Code workplace harassment, poisoned work environment, and reprisal instances, potential instances, incidents and complaints in a manner appropriate in ~~given~~ the circumstances, through this Policy ~~policy~~ and the associated procedure ~~procedures~~.

6.4 ~~Supervisors are~~ will be responsible for not only their own conduct, but also for addressing the conduct of those under their supervision. ~~To prevent non-Code workplace harassment, poisoned work environment, and reprisal and to address instances, potential instances, and incidents/complaints, of workplace harassment management will do the following:~~

- (a) Lead by example by not engaging in, tolerating or condoning non-Code workplace harassment, a poisoned work environment, or reprisal;
- (b) Make all reasonable efforts to protect workers from -all forms of harassment by maintaining a work/working/learning environment that is respectful;
- (c) Post this Policy and associated procedure in a conspicuous location in the workplace, where it would

be likely to come to workers' attention, and make the Policy and procedure available to workers (electronically or by hard copy).), ~~the Workplace Harassment Prevention Policy and associated procedure in the workplace, visible to employees/students;~~

- (d) Be aware and /knowledgeable of this ~~Policy~~policy and associated procedure.;
- (e) Educate or provide educational opportunities for workers -to ensure they are aware that harassment will not be tolerated, and that they understand their rights and responsibilities as ~~they relate~~it relates to this ~~Policy~~policy and associated procedure.;
- (f) Take all instances, potential instances, incidents and complaints of non-Code workplace harassment, poisoned environment, and reprisal seriously by promptly:

intervening

- (i) Intervening when ~~it~~workplace harassment occurs or is suspected to have occurred;
- ~~(i)—investigating Acting promptly on all~~allegations, instances, potential instances, incidents/complaints of harassment;
- (ii) ~~Investigating incidents~~ and complaints of non-Code workplace harassment, poisoned environment and reprisal in a manner appropriate ~~ingiven~~ the circumstances, in accordance with this ~~Policy~~policy, associated procedure and the OHSa;
- (iii) makingMaking inquiries or /consulting with other Board departmentsthe Human Rights Office, as appropriate, to assist in effectively managing allegations, instances, potential instances, and incidents/complaints; and
- ~~(ii)—taking~~Taking remedial and/or disciplinary action, ~~(in consultation with Employee Services),~~ with any person found to have engaged in ~~workplace harassment or~~ conduct in violation of this ~~Policy~~policy. Remedial action may include, but is not limited to, training and education or other actions as deemed appropriate ~~ingiven~~ the circumstances. Remedial action for workers is taken in consultation with Employee Services. Remedial action for persons who are not ~~workers~~employees is taken after consultation with the Legal Services.;
- (iv) Department and/or Safe Schools Department and/or applicable ~~superintendent~~Superintendent, as appropriate, and. This may ~~entail~~result in, but is not limited to, denial of access to Board premises or issuance of trespass notices.

6.5 All workers, including those who witness, are encouraged to report non-Code workplace harassment, a poisoned work environment, or reprisal to

the appropriate person (typically one's supervisor or the next level supervisor not involved or implicated) in accordance with the procedure made pursuant to this Policy. Reprisal against workers is prohibited (please see above definition of "reprisal").

6.6 Any person who makes a complaint of non-Code workplace harassment, poisoned work environment, or reprisal or who manages or participates in a process to address and/or resolve a matter under this Policy, will adhere to the confidentiality provisions set out in the procedure made pursuant to this Policy.

~~6.6—6.7 The Human Rights Office (HRO) is neutral and unbiased and is a resource to all covered under this policy. The HRO will work to prevent workplace harassment and respond to inquiries, incidents/complaints of workplace harassment by doing the following:~~

- ~~(a) Assisting with the development of education, information and instruction materials related to the prevention of workplace harassment, and the Board's Workplace Harassment Prevention Policy and associated procedure;~~
- ~~(b) Providing independent, unbiased, confidential advice to all covered under this policy (includes complainants, respondents etc.);~~
- ~~(c) Conducting preliminary assessments of incidents/complaints of workplace harassment (as outlined in the associated procedure), in order to determine if on the face of the complaint the allegation(s) meet the definition of workplace harassment and to determine appropriate next steps to deal with an incident/complaint, in a manner appropriate in the circumstances. This may include re-directing matters to another department of the Board, as deemed appropriate. Actions taken or fact-finding conducted for the purposes of an assessment will be deemed an investigation appropriate in the circumstances for purposes of the OHSA, if the assessment determines no further investigation of the matter is warranted;~~
- ~~(d) Assisting with resolving incidents/complaints formally or informally;~~
- ~~(e) Assisting with the provision of Mediation or Alternative Dispute Resolution (ADR) services, as deemed appropriate or;~~
- ~~(f) Formally investigating matters, as deemed appropriate by the HRO.~~

~~6.7—Action may will be taken with any worker who fails to abide by the requirements set out in this Policy, including but not limited anyone found to have violated this policy, as follows:~~

~~Any worker found in violation of this policy may be subject to remedial action or discipline, up to and including termination of employment. (Knowingly or purposefully making false or misleading statements during an investigation, or making a false or vexatious complaint, is considered a violation of this policy).~~

- ~~(a) Supervisory staff who fail to take appropriate action to resolve incidents and complaints (formal or informal), or who fail to act appropriately on findings of~~

~~violations of this policy will be found to have violated this policy and may be subject to remedial action or discipline, up to and including termination of employment.~~

~~SPECIFIC DIRECTIVES~~

6.8 This Policy must be interpreted harmoniously with the spirit and intent of the Human Rights Code, and the Board's Human Rights Policy (P031) and Equity Policy (P037), and will not be interpreted or applied in a manner that undermines the values or rights reflected in them.

Example: A person experiencing racism from another worker isolates themselves away from that person, and avoids speaking to them. They also warn another racialized worker about that person's racism. This reaction to experiencing racism is not workplace harassment. While the ideal circumstance is for all TDSB supervisors to be approachable and responsive so that workers experiencing racism can address such matters through them, workers should not be penalized when they feel unable to do so or when such efforts fail and other strategies are employed.

6.9 ADDRESSING INCIDENTS OF SUSPECTED HARASSMENT
Workers should refer to the procedure created pursuant to this Policy for information on addressing situations or complaints of suspected non-Code workplace harassment, poisoned work environment, and reprisal.

7.0

~~The Director is authorized to issue operational procedures to implement this policy.~~

EVALUATION

~~This~~The Workplace Harassment Prevention Policy will be reviewed as required, ~~but~~and at least annually, in accordance with the ~~OHS~~OHS~~A Occupational Health and Safety Act.~~

8.0

APPENDICES

Not Applicable

9.0

SPECIFIC DIRECTIVES

The Director will issue an operational procedure to implement this Policy, including setting out the process for addressing incidents or complaints of suspected non-Code workplace harassment, poisoned work environment, and reprisal.

10.0 REFERENCE DOCUMENTS

Policies:

- Acceptable Use of Information Technology Resources (P088)
- Board Member Code of Conduct (P075)
- Caring and Safe Schools (P051)
- Equity (P037)
- ~~Dealing with Abuse and Neglect of Students (P045)~~
 - Gender-Based Violence (P071)
 - Human Rights (P031)
 - Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
 - Respectful Learning and Working Environment (P073)
 - Workplace Violence Prevention (P072)

Procedures:

- ~~Abuse and Neglect of Students (PR560)~~
 - Board Code of Conduct (PR585)
 - Bullying Prevention and Intervention (PR703)
 - Code of On-line Conduct (PR571)
 - Complaint Protocol for the Board Member of Conduct (PR708)
 - E-mail Usage (PR572)
 - Police-School Board Protocol (PR698)
 - Sexual Misconduct by Students (PR608)
 - Workplace Harassment Prevention and Human Rights (PR515)

Legislative Acts:

- Education Act
- Human Rights Code
- ~~Occupational Health and Safety Act~~
- ~~Ontario Human Rights Code~~
 - _____

POLICY REVIEW WORK PLAN

Date: [April 29, 2020](#)

All policies will be reviewed to ensure consistency with the TDSB's Mission, Values and Goals Policy (P002), the Equity Policy (P037) and the Board's Multi-Year Strategic Plan.

POLICY INFORMATION

Policy Title and Policy Number: [Workplace Harassment Prevention \(P034\)](#)

Review during fiscal year: [2019-2020](#)

Last reviewed: [June 19, 2019](#)

Director's Council member responsible for this Policy review: [Executive Superintendent, Employee Services](#); and [Executive Superintendent, Human Rights and Indigenous Education](#).

Phase I. PLANNING AND OBTAINING TRUSTEES' DIRECTIONS

This Policy Review Work Plan has been discussed with the Policy Coordinator:

☒ Yes

☐ No

This Policy Review Work Plan will be discussed at the Governance and Policy Committee meeting held on: [April 29, 2020](#)

Phase II. REVISIONS**Formatting Changes**

The Policy will be reformatted to ensure alignment with the current Policy Template (Operational Procedure PR501, Policy Development and Management, Appendix A):

☒ Yes

☐ No

Content Changes

The Policy requires content revisions:

☒ Yes

☐ No

The content changes are due to the following reason(s):

- ☐ Legislation
- ☐ Government directives/policies
- ☒ Board decisions
- ☒ Multi-Year Strategic Plan requirements
- ☒ Operational requirements
- ☒ Simplify and/or update using plain language
- ☒ Alignment with Equity Policy

Detailed information on the proposed content changes, including findings of the policy equity assessment:

- Ensure alignment of the Workplace Harassment Prevention Policy (P034) with the governing legislation and caselaw.
- Ensure provisions of the Workplace Harassment Prevention Policy (P034) adhere to the principles of equity as per the Equity Policy (P037).
- Remove *Human Rights Code*-based harassment that currently falls under the jurisdiction of both the Human Rights Policy (P031) and the Workplace Harassment Prevention Policy (P034) from the ambit of the Workplace Harassment Prevention Policy (P034), and remove references to TDSB's Human Rights Office (HRO) from the Workplace Harassment Prevention Policy (P034). This would permit TDSB to assign responsibility for matters that do not fall under the *Human Rights Code* and Human Rights Policy (P031) to Employee Services, better enabling the TDSB to fulfill its human rights and equity commitments to employees, students, parents and community.
- Update the Responsibility section of the Policy to remove Executive Superintendent, Human Rights and Indigenous Education; and replace with Executive Superintendent, Employee Services (Executive Lead TBC).
- Streamline organizational structure and language usage to make it more accessible and user-friendly.
- Ensure consistency of the Policy with the approved Policy Template.

☒ A review of leading practices for similar policies across jurisdictions has been completed and is included with this Work Plan.

Phase III. INTERNAL REVIEWS AND SIGN-OFFS

The Policy review will include TDSB divisions affected by the Policy:

- ☒ Business Operations and Service Excellence
- ☒ Equity, Well-Being and School Improvement
- ☒ Human Rights and Indigenous Education
- ☒ Leadership, Learning and School Improvement
- ☒ School Operations and Service Excellence

In addition, the following departments will be required to sign-off on the proposed Draft Policy:

- ☒ Legal Services
- ☒ Policy Services
- ☒ Government, Public and Community Relations

A sign-off from the Director of Education will be obtained before proceeding with external consultations and/or Committee/Board approval.

- ☒ Director of Education

Phase IV. EXTERNAL CONSULTATIONS

Are external consultations applicable to this Policy?

- ☒ Yes
- ☐ No (*Ministry of Education mandated policy or corporate policy without external stakeholders*)

Mandatory external consultations will include, at a minimum:

1. Posting of the working draft Policy on TDSB website for public feedback:
duration TBD due to COVID 19 concerns

2. Extending invitations for consultation to:

- ☒ Student Senate

and

all Community Advisory Committees of the Board and conducting consultations with the Community Advisory Committees that expressed interest (either individually with each interested committee or collectively with representatives of all interested committees): duration TBD due to COVID 19 concerns

- 1) ☒ Alternative Schools Community Advisory Committee
- 2) ☒ Black Student Achievement Community Advisory Committee
- 3) ☒ Community Use of Schools Community Advisory Committee
- 4) ☒ Early Years Community Advisory Committee
- 5) ☒ Environmental Sustainability Community Advisory Committee
- 6) ☒ Equity Policy Community Advisory Committee
- 7) ☒ French-as-a-Second-Language Community Advisory Committee
- 8) ☒ Inner City Community Advisory Committee
- 9) ☒ LGBTQ2S Community Advisory Committee
- 10) ☒ Parent Involvement Advisory Committee (PIAC)
- 11) ☒ Special Education Advisory Committee (SEAC)
- 12) ☒ Urban Indigenous Community Advisory Committee

In addition to mandatory consultations, other external participants and projected dates of consultation(s) include:

- ☐ School Councils
- ☒ Professional Associations and Unions
- ☐ Other:

The following methods will be applied in the external consultations: [\[at least two or more methods must be selected\]](#)

- ☐ Public meeting
- ☐ Facilitated focus group
- ☒ Call for public delegations
- ☐ Expert panel discussion
- ☐ Survey
- ☒ Posting on the TDSB website
- ☒ Other: [electronic communication](#)

Phase V. COMMITTEE/BOARD APPROVALS

Following external consultations and revisions, the working draft Policy will be presented to the Governance and Policy Committee.

Following recommendation by the Governance and Policy Committee, the revised Policy will be presented to the Board of Trustees.

Once approved, the revised Policy will replace the existing policy on the TDSB website.

Phase VI. IMPLEMENTATION

Following Board approval, the final revised Policy will be communicated through:

- ☒ Posting of the revised Policy on the TDSB website through the Policy Coordinator
- ☒ Sharing with staff through the System Leaders' Bulletin
- ☒ Informing departments at staff meetings and channeling information to the school principals through respective superintendents
- ☒ Implementation of a broad communication plan for internal and external audiences, include summary of policy revisions and expected outcomes

Policy implementation will include:

- ☐ Conducting information/training sessions to TDSB staff affected by the Policy

The projected time period for conducting information/training sessions to staff will be: [Not applicable](#)

- ☒ Review of associated procedures or initiate development of new procedures:

[PR515 - Workplace Harassment Prevention and Human Rights](#)

JURISDICTIONAL SCAN OF INSTITUTIONAL RESPONSIBILITY FOR HUMAN RIGHTS AND WORKPLACE HARASSMENT**Background**

The *Ontario Human Rights Code* (the “*Code*”) prohibits discrimination and harassment in employment and the provision of services on the basis of the prohibited grounds of age, ancestry, colour, race, citizenship, ethnic origin, place of origin, creed, disability, family status, marital status, gender identity, gender expression, record of offences (in employment only), sex, and sexual orientation.

The *Occupational Health and Safety Act* (the “*OHS*”) prohibits workplace harassment (but not discrimination). Unlike the *Code*, under the *OHS*, all workplace harassment is prohibited and no specific ground of harassment needs to be identified. However, the *OHS* provides specific protections in the case of sexual harassment.

There is significant overlap, most obviously in the case of sexual harassment, between harassment protections for workers under the *Code* and the *OHS*.¹ Personal harassment not related to any prohibited ground receives protection only under the *OHS*. Discrimination is only covered by the *Code*.

The Toronto District School Board’s (“TDSB” or the “Board”) obligations under the *Code* are reflected in the Board’s Human Rights Policy (P031), whereas TDSB’s obligations under the *OHS* are reflected in the Workplace Harassment Prevention Policy (P034). For Board workers, the two policies are operationalized in one procedure: the Workplace Harassment Prevention and Human Rights Procedure (PR515). Currently, pursuant to both policy and procedure, the Board’s responsibility for receiving, assessing, investigating, and resolving formal human rights and workplace harassment complaints (human rights based and non-human rights based) rests with the Human Rights Office (“HRO”). The HRO may maintain jurisdiction over formal complaints submitted to the HRO involving human rights and/or non-human rights related allegations of workplace harassment, and directly conducts more complex investigations in these regards. Where no prohibited grounds of discrimination are identified or where the investigation is expected to be straightforward, the HRO may refer such complaints to management (often a Principal or Superintendent of Education) to conduct the investigation, with the HRO providing case management support and oversight as needed. The HRO currently does not directly receive complaints from students and parents, and only admits complaints involving employees, in keeping with the application and scope of the Board’s Workplace Harassment Prevention and Human Rights Procedure (PR515), which places carriage of student and parent complaints in the hands of management and the school administration.

The Board is reconsidering where to place responsibility for non-*Code*-based harassment incidents and complaints in policy and procedure, as well as student and parent complaints of discrimination. This scan explores whether responsibility for *Code* and non-*Code* workplace complaints in other jurisdictions lies with the same office, and considers which board department or individual has responsibility for the complaints process.

¹ Grounds-based harassment in employment that is prohibited by the *Code* (workplace racial harassment for instance) is also prohibited by the *OHS* as workplace harassment (but without reference to the ground).

Policies and procedures of the following Ontario boards located in the Greater Toronto Area were considered:

- Toronto Catholic District School Board (“TCDSB”)
- York Region District School Board (“YRDSB”)
- York Catholic District School Board (“YCDSB”)
- Peel District School Board (“PDSB”)
- Dufferin-Peel Catholic District School Board (“DPCDSB”)
- Conseil scolaire Viamonde (“CSV”)
- Conseil scolaire catholique MonAvenir (“CSCM”)
- Halton District School Board (“HDSB”)
- Halton Catholic District School Board (“HCDSB”)
- Durham District School Board (“DDSB”)
- Durham Catholic District School Board (“DCDSB”)

The approaches of City of Toronto and the Ontario Public Service (“OPS”) were also considered.

Summary

All jurisdictions considered have policies that codify protections under both the *Code* and the *OHS*A.

The PDSB, the YRDSB, and the City of Toronto are the only jurisdictions considered that have dedicated human rights offices that actively conduct investigations. In all three, there is a jurisdictional division such that the human rights offices do not typically process complaints that fall outside of the *Code*. All three of these human rights offices handle complaints about human rights matters, and these are not restricted to the area of employment. The PDSB and the YRDSB accept human rights complaints by and on behalf of students, for instance. In these jurisdictions, site supervisors or the human resources departments are responsible for workplace harassment complaints that fall under the *OHS*A.

In the OPS, there is no division of responsibility between the two regimes. However, the office dedicated to human rights and workplace harassment does not conduct investigations. Rather, investigations are conducted by management or external investigators. The Workplace Discrimination and Harassment Prevention Program staff (“Advisors”) have an advisory role and are responsible for storing records following the conclusion of the investigation.

In the remaining jurisdictions without specialised human rights offices, there is no division of responsibility between human rights and workplace harassment, and local supervisors or the human resources departments are responsible for both.

A. Jurisdictions with a Division of Responsibility between Human Rights Violations and Workplace Harassment

York Region District School Board

At the YRDSB, there is now a jurisdictional division between *Human Rights Code* and non-*Human Rights Code* complaints. The division was instituted recently following the creation of the Human Rights Commissioner's position.

The Human Rights Commissioner's Office ("HRCO") at the YRDSB now deals with formal *Code*-based complaints that relate to a prohibited ground of discrimination. The HRCO conducts threshold assessments of complaints received under the "Human Rights: Code-Related Harassment and Discrimination Policy and Procedure" to determine whether complaints fall within its jurisdiction, and is responsible for conducting formal investigations. The formal process administered by the HRCO is available to all members of the YRDSB community, including students and employees, who have already attempted to resolve the matter through the informal site-based process.

In the case of non-*Code* workplace harassment complaints, the superintendent responsible for the area in which the alleged harassment took place is responsible for assigning an investigator. Human Resources Services acts in a consultative role and is responsible for keeping records of the investigation.

Sexual harassment complaints must be pursued under the *Code* process.

Peel District School Board

The PDSB also has a division of responsibility between human rights and *OHSA* complaints, with the Human Rights Commissioner's Office ("HRCO") taking full-carriage of all *Code*-based complaints it receives, and the Manager of Labour Relations ("MLR") having responsibility for complaints under the *OHSA*.

Previously, both regimes were managed by Human Resources Support Services. However, following the creation of the Human Rights Commissioner's Office ("HRCO") in December 2018, which reports to the Director of Education, the HRCO has jurisdiction over all formal human rights complaints from members of the PDSB community including students. The HRCO conducts threshold assessments to determine whether complaints fall within its jurisdiction, and is responsible for conducting formal human rights investigations. In speaking with the Commissioner, she explained that, at this time, these investigations are conducted directly by the HRCO. She also indicated that, because their office is at arms-length from the board, their investigations could not be referred to a Superintendent of Education ("SOE") to conduct the investigation on their behalf.

The MLR is responsible for workplace harassment complaints that allege breaches of the *OHSA*, including alleged *OHSA* breaches that would also breach the *Code*. Intake and threshold

assessments are conducted by the MLR or designee. An investigator, who may be supervisory staff, is assigned to conduct an investigation if warranted, and the investigation report is remitted to the MLR to take appropriate action.

Complainants whose matter falls under both jurisdictions can choose to go to either the MLR or the HRCO, or they might proceed through the MLR first, and could later complain to the HRCO.

The Commissioner indicated that SOEs are responsible for conducting human rights investigations if the matter is brought to them by the complainant; in this case, the HRCO's existence does not supplant the managerial duty to investigate.

City of Toronto

Although the City of Toronto has a single policy and an associated procedure for responding to both human rights and workplace harassment (covering both *Code* and *OHSa* violations), the procedure specifies that division management is responsible for intervening and addressing complaints that do not engage the prohibited grounds under the *Code*, and that managers should contact Employee and Labour Relations and the Human Rights Office ("HRO") for assistance. The HRO provides consultations to individuals and management to provide information and advice regarding both the *Code* and the *OHSa*.

The HRO will only accept complaints from employees of non-*Code* workplace harassment where there is evidence that division management has failed to meet policy obligations.

All formal complaints that engage a prohibited ground are referred to the HRO for mediation and/or investigation. The HRO accepts complaints regarding all areas covered by the *Code* (i.e. employment, services, contracts, and housing accommodations).

Management conducts the threshold assessment and determines whether an investigation is required before referring a complaint to the HRO.

B. Jurisdictions with a Single Process for Workplace *Human Rights Code* and *OHSa* Violations

The remaining jurisdictions have a single process for responding to employee allegations of violations of the *Code* and the *OHSa*.

Although not repeated below, it is noted that most of these jurisdictions have an initial informal process where the complainant seeks the assistance of their supervisor to resolve the matter by seeking to facilitate an agreement between the parties.²

² Some jurisdictions specify that this process may be unavailable in the case of sexual harassment because of the *OHSa*-imposed obligation to conduct an investigation.

Other than the OPS, none of these jurisdictions have dedicated human rights offices, although a few of the boards now have a Human Rights and Equity Advisor (“HREA”) whose role is not yet reflected in the written policy and procedure.³

Toronto Catholic District School Board

At the TCDSB, the Superintendent of Human Resources (or designate) is responsible for investigating workplace harassment and *Code*-based workplace complaints. However, all managers and also the Conflict Resolution Department have responsibility for key aspects of the process.

York Catholic District School Board

The YCDSB procedure indicates that workplace harassment and discrimination complaints are submitted to the complainant’s superordinate before being investigated. Investigations are facilitated by the Superintendent of Human Resources and the investigation report is provided to the school superintendent or Superintendent of Human Resources to make findings of fact and to decide the outcome.

At the YCDSB, all managers are required to receive training on how to conduct an investigation into a complaint of “workplace harassment, including sexual harassment”.

Dufferin-Peel Catholic District School Board

The DPCDSB has an initial informal process for workplace discrimination and harassment which includes initial fact finding by the supervisor, manager, or principal, including conducting witness interviews.

For formal complaints, the Supervisor of Employee Relations receives the written complaint and is responsible for appointing an investigator or mediator.

Conseil scolaire Viamonde (French public school board)

The CSV has a single policy and related procedure for workplace harassment and harassment and discrimination contrary to the *Code*. Notably, this regime can be invoked by workers and by students.

For formal complaints by students, school administration informs the respondent, provides a summary of the allegations, initiates the investigation process, receives the investigation results, and determines and imposes appropriate measures in response.

³ DDSB, DPCDSB, and TCDSB.

For formal complaints by employees, whether *Code*-related or not, the complaint is submitted to the supervisor who notifies the respondent and provides the respondent with a summary of the allegations, and then the human resources department has carriage of the complaint.

In the case of both students and employees, the investigation is conducted by a person named by the Director of Education or their delegate.

Conseil scolaire catholique MonAvenir (French Catholic school board)

The CSCM has a single policy for workers which references the *OHSA*, but not the *Code*. However it does have two separate procedures: one for *Code*-based harassment and discrimination for employees, and another for workplace harassment. Although the two procedures mirror one another in content, they specify that where a prohibited ground is identified (ie. sexual harassment), it is the *Code* procedure that applies.

Under both procedures, the Attendance Management Advisor and Health and Safety Advisor are responsible for providing information and advice to prospective complainants, and assisting them to write up the complaint.

Formal complaints are submitted to the human resources department, and the board is responsible for investigation and mediation. However it is not identified which office or individual carries out this duty.

Halton District School Board

At the HDSB, formal complaints are submitted to the Executive Officer of Human Resources (or a designate), who is responsible for investigation or information resolution.⁴

Although students can make a complaint under this workplace harassment policy, student complaints about student behaviour are addressed under a separate process.

Halton Catholic District School Board

At the HCDSB, workplace discrimination and harassment formal complaints are submitted to the Executive Officer, Human Resources Services, who is responsible for conducting investigations.

Durham District School Board

⁴ Although both the *OHSA* and the *Code* are referenced in the HDSB procedure, the procedure states that the complaint will be referred to the formal process if it raises a breach of the *Code*. However, it is unclear whether or not *OHSA* complaints that do not indicate grounds of discrimination proceed through the formal process. There is no indication of how *OHSA* complaints that do not raise a *Code* violation should be disposed of if they are not resolved at the informal stage. This may be a drafting oversight.

At the DDSB, formal workplace harassment and discrimination complaint investigations are conducted by the Superintendent of Education/Employee Relations.

Durham Catholic District School Board

The DCDSB's informal workplace harassment and discrimination process includes initial fact finding by the supervisor, including interviewing witnesses, following which there can be a signed agreement, discipline imposed if appropriate, or a referral to the Superintendent of Human Resources and Administrative Services (or designate) who is responsible for conducting the formal complaint process.

Ontario Public Service

At the OPS, the Workplace Discrimination and Harassment Prevention ("WDHP") office is responsible for coordinating all complaints that fall within the scope of the *Code* or the *OHSA*. The WDHP office conducts the threshold assessment, and if the complaint is within scope, the WDHP office recommends to the responsible manager a resolution mechanism or appropriate action based on the nature of the allegations. Upon receiving the recommendation, the manager determines what approach to take. Informal and formal investigations are conducted by management or external investigators. The WDHP office does not conduct investigations. Rather, it has an advisory role and is responsible for storing records following the conclusion of the investigation.

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Establishment of the Renaming Schools to Celebrate the Diversity of Toronto Reference Group: Update

To: Governance and Policy Committee

Date: 2 June, 2021

Report No.: 06-21-4098

Strategic Directions

- Create a Culture for Student and Staff Well-Being
- Provide Equity of Access to Learning Opportunities for All Students
- Build Strong Relationships and Partnerships Within School Communities to Support Student Learning and Well-Being

Recommendation

It is recommended that the report on the establishment of a Reference Committee be received.

Context

On April 21, 2021 the Board decided:

Whereas, the Toronto District School Board has 583 schools, located in every community across Toronto; and

Whereas, school names are an opportunity to teach students about their community's history and place and their community's leaders and heroes; and

Whereas, there are few new school naming opportunities due to the small number of schools being opened each year; and

Whereas, few schools are named after celebrated Indigenous or Black Leaders or Leaders of colour; and

Whereas, some school names do not reflect the values of contemporary Toronto; and

Whereas, some schools are named after people with a racist legacy; and

Whereas, policy P047, Naming of Schools and Special Purpose Areas and procedure PR592, Naming of Schools and Special Purpose Areas create impediments to review or

change school names and themselves might be characterized as systemically racist policies;

Whereas, based on the Board's policy review schedule, review of policy P047 is currently under Phase 3 of the policy review process;

Therefore, be it resolved:

- a. That a special purpose reference group comprised of students, parents, TDSB educators, community members, appropriate qualified experts and individuals involved in anti-racism work, be established:
 - i. to inform the consultation process;
 - ii. to propose amendments to policy P047 and procedure PR592, Naming of Schools and Special Purpose Areas, so that school naming or renaming can be made from time-to-time to reflect the diversity of the City;
 - iii. to provide a proposal for a city-wide review of all school names so that TDSB schools reflect the diversity of Toronto's success.
- b. That the reference group present a report to the Governance and Policy Committee no later than June 30, 2021.

The Toronto District School Board serves more than 246,000.00 students and their families within 583 schools. We are committed to creating learning environments where students are focused and engaged from the moment they enter. The name of a school is critical to fostering a sense of belonging and purpose for all students. Many names of TDSB schools are not reflective of Indigenous histories or the current racial, and cultural composition of our students and their families whom we serve. As such, The Toronto District School Board has taken a bold and necessary step toward addressing this inequity.

Guiding Principles

Engaging in a process to rename a school is an acknowledgement of the need to reimagine the relationship between the school and the community. It considers both the historical and present-day significance of both the people and the space. This process is occurring at a time when there is a broader societal shift toward honouring the importance of "naming" spaces and its association to the land and Indigenous histories.

Action Plan and Associated Timeline

Actions Completed

Following the resolution above, staff has taken the following steps to establish the reference group. A meeting with staff from the Indigenous Education Centre was held to seek their input and guidance. The participation of all three Student Trustees on the reference group has been confirmed, as well as the participation of the following Academics: Dr. Susan Dion, Dr. Carl James, Dr. Vidya Shah, and Dr. Natasha Henry. Ongoing communication with the Policy Coordinator, and the Strategy and Planning Department will also continue.

As a result of the Board decision to proceed with the Establishment of a School Renaming Committee for Queen Victoria Public School, staff will ensure ongoing communication is maintained throughout their consultation process to guide and inform the work of the reference group.

Staff also collaborated with TSAA to create an Expression of Interest to establish a group of 10 Administrators to support the work of the reference group.

In order to establish a clear process for community participation, a **Draft “Expression of Interest”** was created, seeking two community representatives from each Learning Centre. This document will go out in the coming weeks with a response back by June 2021. (Appendix A)

Next Steps:

Staff will Finalize the membership of the reference group with the addition of community members with an **anticipated completion date of June 2021**.

Staff will continue to engage with the Indigenous Education Center to create a list of the top three schools prioritized for renaming. **The anticipated completion date is September 2021.**

In light of the above, the Reference group will not be ready with a report for the Board by June 2021. Staff suggests that based on the work involved it is projected that a report for the Board would be ready by October 2021

Resource Implications

Staff will engage in ongoing communication with the Finance Department to provide updates with potential financial implications.

Communications Considerations

Communications staff will be included as part of the reference group in order that appropriate messaging is communicated to all stakeholder audiences.

Board Policy and Procedure Reference(s)

P047 and Procedure PR592, Naming of Schools and Special Purpose Areas

Appendices

- Appendix A: Draft Expression of Interest for Community Participation on the reference group

From

Associate Director, Curtis Ennis at Curtis.ennis@tdsb.on.ca or at 416 397-3187

APPENDIX A

Expression of Interest Form Community Representation
on Reference Group

Thank you for your interest in participating as a community member on The Renaming Schools Reference Group. As we know, engaging in a process to rename a school is an acknowledgement of the need to reimagine the relationship between the school and the community. It considers both the historical and present-day significance of both the people and the space. This process is occurring at a time when there is a broader societal shift toward honouring the importance of “naming” spaces and its association to the land and Indigenous histories.

By completing this Expression of Interest form, you confirm that you are a parent, community leader, or business owner within the TDSB geographic boundaries and be willing to make a significant commitment to the work of the Reference group. This work will involve critically examining the current school renaming policy to promote school community engagement, voice, reflects and captures the diversity of TDSB schools. The needs of this specific committee may include online, or conference calls as well as work outside of the committee meetings.

We ask that committee members be willing to meet outside business hours, depending on TDSB and committee timeframes. As such, the Reference group will be limited in size and will reflect the different geographic Learning Centres, varied experiences, and diverse communities to maximize participation while retaining the ability to function effectively.

We thank you for your submission. Only those selected will receive an email confirmation.

Email

Current Local Schools (in the area which you reside/Organization Affiliation Name)

Current Local School Principal Name

Your First and Last Name

Profession(s) / Field(s) /Community Role

Current Contact Address

Contact Phone Number

Gender

- ☐ Male
- ☐ Female
- ☐ Gender diverse (LGBTQ+), gender fluid, non-binary, gender-neutral, transgender, two-spirit)
- ☐ Prefer not to answer

How do you identify?

- ☐ Black (Examples: Ethiopian, Jamaican, Kenyan, Nigerian, Somalian, Vincentian)
- ☐ East Asian (Examples: Chinese, Japanese, Korean)
- ☐ First Nation, Métis, and/or Inuit
- ☐ Latin American (Examples: Colombian, Cuban, El Salvadorian, Mexican, Peruvian)
- ☐ Middle Eastern (Examples: Afghani, Iranian, Lebanese, Saudi Arabian, Syrian)
- ☐ South Asian (Examples: Bangladeshi, Indian, Pakistani, Sri Lankan, and Indian Carribean such as Guyanese
- ☐ Southeast Asian (Examples: Filipino, Malaysian, Singaporean, Thai, Vietnamese)
- ☐ White (Examples: British, Greek, Italian, Portuguese, Russian, Slovakian)
- ☐ Prefer not to answer

If you identify with more than one ethno-racial identity, please enter your identities.

Do you consider yourself to be

- ☐ Disabled
- ☐ Not Disabled
- ☐ Prefer not to answer

Please complete the form below and include a 100-word statement indicating how your involvement contributes to developing a diverse and multicultural lens to inform this policy revision.

Affirmation: I affirm that I am the person who I claim to be and not impersonating anyone else.

- ☐ Yes
- ☐ No

Communications: I want to receive digital communications from the TDSB related to the Reference Group

- ☐ Yes
- ☐ No

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P020, Transportation of Students Policy, and Specialized Schools and Programs Policy Development: Update

To: Governance and Policy Committee

Date: 2 June, 2021

Report No.: 06-21-4107

Strategic Directions

- Provide Equity of Access to Learning Opportunities for All Students

Recommendation

It is recommended that the update on the status of development of the Specialized Schools and Programs Policy and review of P020, Transportation of Students Policy be received for information.

Context

The purpose of this report is to update Trustees on the deferral of the presentation of the Specialized Schools and Programs Policy and the P020 Transportation of Students policy.

Specialized Schools & Programs Policy

In June 2019, the Board of Trustees approved a policy review work plan for the Optional Attendance Policy (P013). This Policy review proposes the removal of certain sections including alternative schools as well as specialized programs. As alternative schools are addressed in the Alternative Schools Policy (P062) and admission to specialized schools and programs is outlined in the Admission to Specialized Schools and Programs Procedure (PR612), staff also recommends that further clarity will be provided to Toronto District School Board (TDSB) communities through the development of a new Specialized Schools and Programs Policy. The new Policy will be

created to mirror the Alternative Schools Policy, in which clear definitions and policy directions for Specialized Programs will be established.

The report was scheduled to be presented at the 2 June 2021, Governance and Policy Committee (GPC) meeting however, due to COVID-19's impact on public consultation timelines, staff are recommending that the Specialized Program Policy be deferred until the fall to allow additional time for greater consultation.

Staff recommend that the report be brought to a fall GPC after the public consultations have concluded.

P020 Transportation of Students Policy

On 24 March 2021, staff presented the P020 Transportation of Students Policy status update and decision-making points for discussion. The report was referred back to staff for further input. Trustees also recommended that staff host a Transportation information session to update them on the current policy around eligibility parameters, and operating and financial impacts of upcoming recommended policy changes.

The report was originally scheduled to be presented at the 2 June 2021 GPC meeting following a trustee information session from the Toronto Student Transportation Group to be held on 31 May 2021. However, staff are recommending that the P020 Transportation of Students policy review be deferred until 29 September 2021 GPC, to allow time for further analysis on impact and costing of different transportation options.

Staff also recommend that the Transportation trustee information session be rescheduled to mid-September 2021 to coincide with the new 29 September 2021 GPC presentation date.

Action Plan and Associated Timeline

In Fall 2021 staff will bring forward an update on the Specialized Schools and Programs Policy and P020 Transportation of Students Policy.

Resource Implications

Not applicable.

Communications Considerations

TDSB Policies and Procedures website will be updated with information on the status of the policies. Additional communication will be updated in Fall 2021.

Board Policy and Procedure Reference(s)

- Optional Attendance Policy (P013)
- Alternative Schools Policy (P062)
- Optional Attendance Procedure (PR545)
- Alternative Schools Procedure (PR584)
- Admission to Specialized Schools and Programs (PR612)

Appendices

Not applicable.

From

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Bylaws Review Ad Hoc Committee: Interim Report

To: Governance and Policy Committee

Date: 2 June, 2021

Report No.: 06-21-4108

Strategic Directions

- Create a Culture for Student and Staff Well-Being
- Build Strong Relationships and Partnerships Within School Communities to Support Student Learning and Well-Being

Recommendation

It is recommended that the Bylaws Review Ad Hoc Committee: Interim Report be received.

Context

At the November 16, 2020 Organizational Board meeting, the Bylaws Review Ad Hoc Committee was established with a mandate to review the Board's Bylaws and to present recommendations regarding revisions to the Governance and Policy Committee.

Specifically, the Board of Trustees resolved:

- (a) That a Bylaws Review Ad Hoc Committee be established as follows:

Mandate: To review the Board's bylaws and present recommendations regarding revisions to the Governance and Policy Committee in the spring 2021

Membership: Up to five members;

- (b) That Trustees Doyle, Laskin, Rajakulasingham and Wong be appointed to serve on the Bylaws Review Ad Hoc Committee for a term ending November 14, 2021.

At its first meeting in January 2021, the Bylaws Review Ad Hoc Committee established a two-step process for the review of the Bylaws:

- i. the Committee will conduct an initial review of the Bylaws. Required revisions, in principle, will be recommended. The review will include soliciting input from all trustees;
- ii. staff will revise the Bylaws, in accordance with direction provided, and will submit a revised draft for the Committee's consideration.

The Committee recommended an equity assessment of the Bylaws be incorporated into the review process, based on the principles of the Equity Policy (P037).

The Committee also recommended that it seek input from the Integrity Commissioner as part of the Bylaws review.

Six (6) Bylaws Review Ad Hoc Committee meetings have taken place to date beginning on January 27, 2021. The Committee has considered the following related matters (themes) and associated Bylaws provisions:

Bylaws Provisions Considered to Date:	
Theme: COMMITTEES	
Attendance	
Committee of the Whole	
Mandates/Terms of Reference	
Special Committees vs. Subcommittees	
Reporting to Board	
Clarification on Non-Trustee Members	
Community Advisory Committees	
Chair/Vice Chair Election Procedure	
Theme: MEETINGS - RULES AND PROCEDURES - Part 1	
Agenda	
Notice of Motion	
Suspending Provision of Bylaws	
Mover/Seconder Requirement to Put an Agenda Item on the Floor	
Quorum of Special Committees and Subcommittees	
Approval of reports for receipt	
Public/Private Meetings	

The Committee reports from each meeting were provided to the Governance and Policy Committee for information. A summary of the Committee's decisions in principle to date can be found in Appendix A.

As part of the review, on May 6, 2021, the TDSB's Integrity Commissioner presented to the Committee a memorandum on preliminary review of the Board's Bylaws.

The TDSB's Equity and Human Rights Office have attended Bylaws Review Ad Hoc Committee meetings and is expected to continue the Bylaws equity assessment.

On March 10, 2021, upon recommendation by the Bylaws Review Ad Hoc Committee and the Governance and Policy Committee, the Board of Trustees extended the deadline for presenting the final report on the review of the Bylaws and changed it from spring 2021 to November 2021. The Bylaws Review Timeline is provided in Appendix B.

The Bylaws Review Ad Hoc Committee – Interim Report is being presented to the Governance and Policy Committee for information.

Action Plan and Associated Timeline

Subject to the Governance and Policy Committee's directions, the Bylaws Review Ad Hoc Committee – Interim Report will be provided to the Board of Trustees for information. The Committee is expected to continue review of the Bylaws in accordance with the Bylaws Review Timeline (Appendix B).

Resource Implications

No additional resources will be required at this time.

Communications Considerations

No additional communications requirements are required at this time.

Board Policy and Procedure Reference(s)

- TDSB Board Bylaws, November 11, 2020 - Current
- Delegation Procedure (PR718)

Appendices

- Appendix A: Bylaws Review Ad Hoc Committee Decisions in Principle To Date
- Appendix B: Bylaws Review Timeline

From

Leola Pon, Executive Officer, Legal Services at leola.pon@tdsb.on.ca or at 416-395-4932

Vitaliy Plotnikov, Policy Coordinator, Policy Services at vitaliy.plotnikov@tdsb.on.ca or at 416-397-3164

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BRC DECISIONS IN PRINCIPLE TO DATE

Theme	Issue/Problem	Questions for Consideration	Bylaw Subsection	Decisions in Principle
COMMITTEES				
Attendance	Current Bylaws provide an exemption to trustees who are on pregnancy/parental leave from missing 3 consecutive Board meetings without losing trustee office. The Bylaws are silent on Committee membership, i.e., missing 3 committee meetings without losing committee membership.	Should pregnancy/parental exception also apply to Committees? If so, revise section 5.7.3 and place it after current section 5.7.11	(5.7.3/5.7.11)	Yes
	Current Bylaws set out requirements for physical attendance of meetings. The requirements are inconsistent with the new rules and practices of electronic meetings and virtual participation introduced during the COVID-19 pandemic.	Should we revise section 5.7.1 and include an exemption clause for circumstances such as the COVID-19 pandemic?	(5.7.1)	Yes (Add provision to default to relevant legislation in case of conflict)
	Concern that some meetings are not open to all trustees. If there are meetings that are closed to non-members, this must be included in the committee terms of reference and only if required by law/legislation/confidentiality agreements etc.	Are any meetings, including committees and subcommittees, closed to trustee non-members?	TBC	The terms of reference for committees/subcommittees must clearly outline the rules re attendance by non-members.
Committee of the Whole	Need to confirm and clarify concept of the Committee of the Whole, particularly in relation to newly established Planning and Priorities Committee. “Committee of the Whole” (CW) may mean: a) a meeting of the Board of Trustees using procedural rules of a committee (as defined in the current Bylaws), or b) a separate committee of the Board composed of all trustees (as was defined in the previous version of the Bylaws).	Is Committee of the Whole a meeting format or a committee? Depending on the answer to the question above, revise definition of “Committee of the Whole” and related provisions to ensure clarity.	(1.6) and (4.5.5) (1.6)	Meeting format
	Consider whether any rules applicable to Committee of the Whole should be spelled out in the Bylaws.	Who should preside over Committee of the Whole meeting? Who is chair and vice-chair at CW?	TBC TBC	There is value in defining Chair for CW, recommend that it should be VC of Board. It’s proposed that Vice-Chair of the Board would chair CW meetings, and the Chair of the Board would serve as a Vice-Chair of CW.
		Should the CW meetings be scheduled in advance?	TBC	No (However, because delegations are permitted at CW, the notice of meeting would have to be provided in advance, thus essentially scheduling is required.)

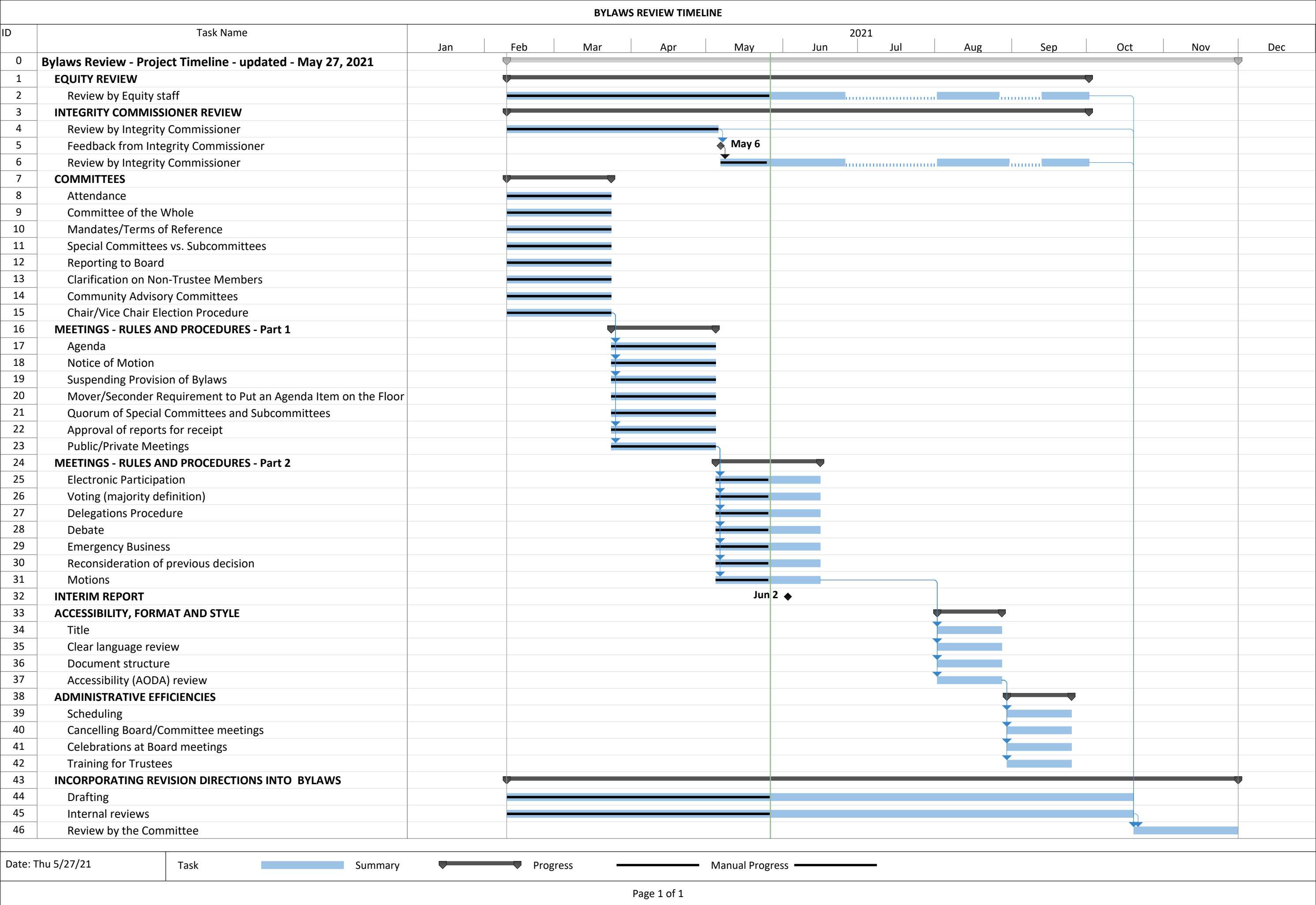
Theme	Issue/Problem	Questions for Consideration	Bylaw Subsection	Decisions in Principle
		Is a simple majority vote required to convene a CW meeting?	(4.5.5)	Yes (majority vote)
		Should delegations be permitted at CW meetings?	(5.16)	Yes
		Can a CW meeting be convened during special Board meeting?	(4.5.5)	Yes – if suspending the bylaws – 2/3 vote
Mandates/Terms of Reference	Mandate of the Planning and Priorities Committee (PPC) includes “other issues referred to it from time to time by the Board or the Chair of the Board”.	Should we limit PPC’s mandate, and Chair’s referral ability, so that PPC cannot duplicate the work of other committees?	(4.5.3.g)	No, the preference is to keep the catch-all provision.
	Current Bylaws do not state which committee is responsible for the Board Bylaws.	Should we explicitly include ‘Bylaw Review’ in GPC mandate?	(4.6.4)	Yes
	Concern that committees have mandates, but do not have terms of reference.	Should we require terms of reference for every Committee?	(4.1.2)	Yes
		Should we create a template with standard terms of reference for Board committees to use make the process easier?	TBC	Yes
		Should mandates and terms of reference be included in the Bylaws?	TBC	No. The terms of reference template will be part of a new Governance Procedure. The Bylaws will include reference to the Governance Procedure to ensure flexibility.
Special Committees vs. Subcommittees	Under the Bylaws, Special Committees are established by the Board, and Subcommittees are created by Committees. Clarification is required on whether Committees have authority to create Subcommittees.	Should Special Committees (e.g., Director’s Search, Board Self-Assessment, Negotiations, etc.) have more specific provisions embedded in the Bylaws (e.g., reporting structure, final authority, etc.)?	(4.8)	Yes
		Should the Bylaws explicitly delegate authority to Committees to establish and dissolve Subcommittees? Under s. 4.3: “Committees are not decision-making bodies and may only make recommendations to the Board for consideration and final approval”.	(1.6), (4.1), (4.3) (4.8) and (4.9)	No, the Bylaws need to clarify that Committees may make recommendations to the Board to establish Subcommittees. The approval authority resides with the Board. In addition, the Bylaws should outline the process for establishing staff committees that include Trustees as members.

Theme	Issue/Problem	Questions for Consideration	Bylaw Subsection	Decisions in Principle
Reporting to Board	Current Bylaws lack details on reporting structure, including timing and sequence, allowing for the potentially problematic flow of information.	Should we clarify that a report of all committee meetings must go to the following Board meeting, so the Board has a record of all committee work? What must be included in a report when it must go to the Board, etc.?	(4.3.2)	Yes, this appears to be recent practice and there is already an adequate template.
Committee Membership	Current Bylaws state that only trustees may be members of a committee (including subcommittees).	Which Committees, including Special Committees and Subcommittees can have staff and outside parties as members?	(4.4.8)	Only Trustees are considered members of any type of Board Committee. Need to clarify what terms should be used when staff/outside members are on specific committees, whether mandated or not.
Community Advisory Committees	The list of Community Advisory Committees (CACs), that is included in the Bylaws, is frequently amended as new CACs are established and some are dissolved. Tracking the changes appears to be problematic. Current Bylaws list of CACs is incomplete, it does not include LGTBQ2S CAC.	Do we need to list CACs in the Bylaws? Is there a way to easily update the Bylaws if we establish or dissolve a CAC?	(4.10.2)	Status Quo: Section 1.3.4 (d) allows for housekeeping changes such as correcting the name of CACs.
Chair/Vice Chair Election Procedure	The procedure for Election of Board Chair and Vice Chair is not included in the Bylaws. It exists as a Board resolution, outside the Bylaws and associated governance procedures, and therefore is not easily searchable/available.	Should we elaborate on specific details and incorporate the procedure into Bylaws? Alternatively, should the Chair/Vice-Chair Election procedure be adopted as a separate governance procedure, such as the Delegation Procedure?	(3.4)	Yes, elaborate on details but keep outside Bylaws as procedure to allow more flexibility.
Meetings Part One				
Agenda	Concern regarding Board agenda clearing as new Committee Chairs/Vice-Chairs are unaware of the best/current practice requiring their attendance at agenda clearing meetings.	Should Standing Committee Chairs and Vice-Chairs formally participate in determining the content of Board meeting agenda? Should Board Vice-Chair be included? Current provision, 5.12.1a: <i>"The content of the agenda for Board will be determined by the Board Chair in consultation with the Director or designate"</i> Similarly, should Vice-Chairs of Committees formally participate in determining the content of Committee meeting agendas? Current provision, 5.12.1b: <i>"The content of the agenda for Committee will be determined by the</i>	(5.12.1a) and (5.12.1b)	Yes, it's beneficial to include the VC, but agenda clearing should not be contingent on VC attendance.

Theme	Issue/Problem	Questions for Consideration	Bylaw Subsection	Decisions in Principle
		<i>Committee Chair in consultation with the Director or designate</i> .		
	Concern regarding staff missing the three business day deadline for providing agenda/background materials.	How can staff deadlines (3 business days prior to meeting) be enforced?	(5.12.2)	Referred to staff.
Notice of Motion	Need to confirm and clarify whether a Committee notice of motion can only be submitted by a member of the Committee.	Who can submit a notice of motion at a Committee meeting: any Trustee or only member of the Committee?	(5.15)	Status Quo – Any trustee can submit a notice of motion, but the actual motion must be moved by member of committee.
	Concern regarding who can subsequently move/second a motion after its advance notice.	If a notice of motion was given as advance notice, must it be moved at a subsequent meeting by the same mover/second?	(5.15)	No
	“Notice of motion for consideration” is used in the Board/Committee agenda materials while there is no reference to this term in the Bylaws. So, under the Bylaws “notice of motion for consideration” does not exist.	Should the Board refrain from using term “Notice of motion for consideration” in agenda materials? Technically, the notice of motion for consideration is a motion to be considered at the meeting. What new language could be used in agenda materials?	(5.15)	Referred to staff.
Suspending Provision of Bylaws	Current Bylaws state that Committees are not permitted to suspend any provision of the Bylaws, but CW/PPC have been making motions to change the rules around speaking time.	Should Bylaws be revised to allow for Committees to suspend provisions of the Bylaws?	(1.2.2) and (5.13.10 – 5.13.11)	Should be limited to only affect speaking time. Staff to present BRC with options (i.e., 3 vs 5 mins speaking time)
Mover/Second Requirement to Put an Agenda Item on the Floor	Under current practices, after approval of meeting agenda, Chair presiding over the meeting calls for a mover and seconder to put each matter/item of the agenda on the floor. Excerpt from December 18, 2020, Chairs/Vice-Chairs training materials: <i>All staff reports contain a recommendation – read the recommendation out loud for the Committee and call for a mover and seconder to put the matter on the floor. This is required before any debate can begin, even if the recommendation is just to receive the report for information. (We are now moving to agenda item number one. The recommendation contained on page three of your agenda and reads as follows. May I have a mover and seconder for this matter please?)</i> School boards and municipalities generally do not require a mover/seconder for items to be considered after the approval of	Should we remove the requirement to have a mover/seconder for items already approved in the agenda? If a mover/seconder are still required, should we apply the requirement consistently, and allow the mover to speak last, as per regular procedure for moving a motion? If mover/seconder are no longer required, should we clarify that it is the responsibility of the Chair/presiding officer to keep meetings moving?	TBC – stated in training documents (Dec 18, 2020, Chairs/Vice-Chairs training materials)	Yes, may be removed. Generally, the duplication of action is not required/efficient. <i>Note: The mover and seconder of the motion (if generated by Trustees) is to be reflected in the motion record.</i>

Theme	Issue/Problem	Questions for Consideration	Bylaw Subsection	Decisions in Principle
	the agenda (Toronto Catholic DSB, Vancouver SB, Ottawa-Carleton DSB (OCDSB), Hamilton-Wentworth DSB, Thames Valley DSB). Robert's Rule of Order also does not have this requirement. The Chair (presiding officer) is expected to execute this function and move the meeting along the approved agenda.			
	<p>Concern that the rules re withdrawal a motion prior to a vote are not quite clear. Some Trustees quote the first part of the Bylaws (5.15.7) but forget the second (5.15.8):</p> <p><i>5.15.7 A motion that has been moved and seconded is considered to be on the floor and will be decided by a vote, unless withdrawn.</i></p> <p><i>5.15.8 A member who moved a motion may withdraw it from consideration before the vote is taken on the motion, provided that the seconder or no other member present objects to the motion from being withdrawn.</i></p>	Should these two provisions [5.15.7 and 5.15.8] be combined for clarity?	(5.15.7) and (5.15.8)	Yes – combine for visuals and remove inclusion of 'seconder' as the motion belongs to all trustees once on the floor.
	The Bylaws requires a mover and a seconder to put a motion on the floor for consideration. The Board, however, does not require a seconder for certain procedural motions in accordance with the Robert's Rules (see Appendix A attached).	<p>Should the Bylaws state that certain motions do not require a seconder?</p> <p>If so, should we clarify which motions do not require a seconder in the Bylaws?</p> <p>Should we attach Appendix A – Parliamentary Procedure Chart as an appendix to the Bylaws or as part of a governance procedure supporting Bylaws?</p>	(5.15) and (5.15.7)	Yes – include Parliamentary Procedure Chart as an appendix to the Bylaws.
Quorum of Special Committees and Subcommittees	<p>Need to clarify whether ex-officio members may be counted towards quorum at any Committee (as defined in s. 1.6), including Subcommittee and Special Committee or at Standing Committee only. Current Bylaws Definitions (1.6) and applicable provisions (4.4.5, 4.4.10 and 5.10.7) are unclear.</p> <p><i>1.6 Definitions: "Ex-Officio Member" means a member of a Committee by virtue of holding the Chair of Vice-Chair position of the Board. An ex-officio member is not a regular member but has the same voting rights and privileges as any other member of a Committee. Quorum (i.e., the minimum number of regular members necessary to conduct a Committee meeting) does not increase with the attendance of ex-officio member(s) at the meeting, but an ex-officio member will count towards quorum.</i></p> <p><i>4.4.5 The Chair and Vice-Chair of the Board will be ex-officio members of each Standing Committee, with full voting privileges.</i></p>	<p>At which meetings are ex-officio members counted towards quorum?</p> <p>Should 4.4.5 be amended to state that the Chair and Vice-Chair of the Board are ex-officio members of all Committees? Or, should the definition of "Ex-Officio Member" in 1.6 be amended?</p>	(1.6), (4.4.5), (4.4.10) and (5.10.7)	Chair and VC should only be ex-officio members on Standing Committees.

Theme	Issue/Problem	Questions for Consideration	Bylaw Subsection	Decisions in Principle
	<p><i>4.4.10 A Trustee who is not a member or an ex-officio member of a Committee cannot move a motion, vote or be counted towards quorum, but may attend the meeting and speak to a motion under consideration by the Committee.</i></p> <p><i>5.10.7 An ex-officio member will be counted towards quorum at a Committee meeting</i></p>			
Approval of Reports for Receipt	<p>Need to confirm and clarify whether reports for receipt should be voted on.</p> <p>Robert's Rules indicate that a vote to receive information is not necessary. Presentation or submission of a report for receipt constitute the receipt. The practices at school boards vary.</p> <p>Under Board's current practices, oral updates, Director's leadership reports, reports from Trustees representing the Board at external organizations, Student Trustees' reports, etc., are not voted on.</p>	<p>Do reports for receipt need to be voted on?</p> <p>What would it mean if a report for receipt is not carried/passed?</p> <p>If approval of reports for receipt is still required, should we clarify that approving a report for receipt does not approve any staff commitments/plans mentioned in the report?</p> <p>If approval of reports for receipt is still required, should the Bylaws clarify that all types of reports for information (both oral and written) would have to be voted on.</p>	TBC	Clearly define in the Bylaws what 'receipt' entails, continue voting on receipt; TBD if voting is needed on verbal updates/reports.
Public/Private Meetings	The Integrity Commissioner, through her annual report (April 2019-September 2020), recommended recording private meetings.	Should the Board record private meetings? If so, should the Bylaws outline the process details?	(5.4)	No. Suggested further discussion with the Integrity Commissioner to clarify recommendation and possible solutions.
	Concern with current Bylaws' alignment/compliance with the Ombudsman's report on open meetings.	Should the Bylaws include limitations on what can and cannot be discussed using the 'chat' function?	(5.8)	Yes.



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Bylaws Review Ad Hoc Committee

Report No. 04

BRC:004A

Thursday, May 6, and May 20, 2021

2 p.m.

Electronic Meeting

Members Present Trustees Shelley Laskin (Chair), Trixie Doyle, Yalini Rajakulasingam and Manna Wong

Also Present Trustees Michelle Aarts, Alexander Brown, Dan MacLean, Christopher Mammoliti, Robin Pilkey and David Smith
All trustees participated by electronic means in accordance with [amendments to Section 7 of Ontario Regulations 463/97, Electronic Meetings](#).

Part A: Committee Recommendations

No matters to report

Part B: Information Only

1. Call to Order and Acknowledgement of Traditional Lands

An electronic meeting of the Bylaws Review Ad Hoc Committee was called to order at 2 p.m. on Thursday, May 6, 2021, with Trustee Shelley Laskin presiding.

2. Declarations of Possible Conflict of Interest

No matters to report

3. Approval of the Agenda

On motion of Trustee Wong, seconded by Trustee Doyle, the agenda was approved.

4. Delegations

No matters to report

5. Theme Review: Meetings, Part One

The Committee reviewed information from staff (see BRC:004A, page 1) presenting questions for consideration on current bylaw concerns on agendas, notices of motion, suspension of bylaws, mover/seconder requirements for agenda items and quorum.

6. Integrity Commissioner Preliminary Review of TDSB Bylaws

The Committee considered a memorandum from the Integrity Commissioner, Suzanne Craig (see BRC:004A, page 11) presenting a preliminary review of the Board's bylaws.

7. Recess

At 3:45 p.m. on Thursday, May 6, 2021, on motion of Trustee Rajakulasingham, seconded by Trustee Doyle, the meeting recessed to Thursday May 20, 2021.

8. Reconvene

At 2:01 p.m. on Thursday, May 20, 2021 the meeting reconvened with all Committee members present. Trustees Aarts, Mammoliti and Pilkey were also in attendance.

9. Theme Review: Meetings, Part One

The Committee reviewed information from staff (see BRC:004A, page 1) presenting preliminary considerations from trustees and staff on possible revisions to the bylaw.

Staff undertook to provide information on decisions made in principle. Part two of the Meetings theme review will be presented at the next Committee meeting.

10. Bylaws Review Timeline: Updated

The Committee reviewed information from staff (see BRC:004A, page 17) presenting an updated timeline for the review of the bylaws.

The Committee decided that meetings would continue through June 2021 to complete the review of the Meetings theme and continue to work along the previously agreed upon timeline.

11. Committee Decisions in Principle to Date

The Committee received information from staff (see BRC:004A, page 19) presenting the decisions made in principle to date.

The Committee decided that the information be provided as part of the preliminary report to the Governance and Policy Committee on June 2, 2021.

12. Adjournment

On motion of Trustee Doyle, seconded by Trustee Rajakulasingam, the meeting adjourned at 3:19 p.m. on Thursday, May 20, 2021.

Part C: Ongoing Matters

The next meeting of the Bylaws Review Ad Hoc Committee will be determined by the Committee in consultation with staff.

Submitted by: Shelley Laskin, Committee Chair

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**Written Notice of Motion for Consideration (Trustee Rajakulasingam,
on behalf of Trustee Kandavel and Trustee Aarts)**

From: Denise Joseph-Dowers, Manager, Board Services, Governance and Board Services

In accordance with Board Bylaw 5.15.2, the following motion was submitted as notice at the May 26, 2021 Regular meeting and is submitted for consideration at this time:

5.15.2 A notice of motion will be introduced by a member who is present as an advance notification of a matter at Board or Committee, and will be considered at a subsequent Committee meeting. A notice of motion will not be debated at the meeting at which it is introduced...

5.15.2 (b) A notice of motion submitted prior to, or at a Board meeting, will be referred to the appropriate committee...

5.15.2 (c) A notice of motion submitted prior to, or at a committee meeting, will be considered at a subsequent committee meeting ...

Review of Policy P040, Accountability for Student Achievement

Whereas, in accordance with section 169.1(1) of the *Education Act*, the Board must promote student achievement and well-being; and

Whereas, under section 169.1(1)(d) of the *Education Act*, the Board must develop and maintain policies and organizational structures that promote the goals referred to section 169.1(1) of the *Education Act*; and

Whereas, under section 169.1(e) of the *Education Act*, the Board must monitor and evaluate the effectiveness of policies developed by the Board in achieving the Board's goals and the efficiency of the implementation of those policies; and

Whereas, the TDSB education system requires a clear, transparent and well-defined reporting structure to evaluate effectiveness of student achievement policies; and

Whereas, in 1998 the Board adopted the Accountability for Student Achievement Policy (P040), which has not been reviewed since the date of adoption; and

Whereas, in 2018 the Board made the commitment to ensure that the equity principles, defined in the Equity Policy (P037), are integrated into the TDSB's policies, procedures, programs and initiatives; and

Whereas, the methods and techniques of assessing student achievement significantly changed and advanced in the last decade; and

Whereas, the disruption to student learning due to the COVID-19 pandemic has affected student assessment and evaluation; and

Whereas, the Accountability for Student Achievement Policy (P040) is scheduled for review during the 2021/22 school year;

Therefore, be it resolved:

- a) That the policy, P040, Accountability for Student Achievement be reviewed:
 - i. for relevance in relation to the current understanding of student outcomes and quality of opportunities in which outcomes exist;
 - ii. to include standard and regular cycles of student achievement reporting focusing on appropriate student target groups;
- b) That the review of the policy and all implications in reporting student outcome use an approach in which equity of both student outcome and learning opportunity will be central to the policy revision.

Acknowledgement of Traditional Lands

We acknowledge we are hosted on the lands of the Mississaugas of the Anishinaabe (A NISH NA BEE), the Haudenosaunee (HOE DENA SHOW NEE) Confederacy and the Wendat. We also recognize the enduring presence of all First Nations, Métis and Inuit peoples.

Reconnaissance des terres traditionnelles

Nous reconnaissons que nous sommes accueillis sur les terres des Mississaugas des Anichinabés (A NISH NA BAY), de la Confédération Haudenosaunee (HOE DENA SHOW NEE) et du Wendat. Nous voulons également reconnaître la pérennité de la présence des Premières Nations, des Métis et des Inuit."

Committee Mandate

The Governance and Policy Committee's mandate will be to consider and make recommendations to the Board on governance and policy matters referred to it for consideration, including review of Board governance practices and the ongoing development and review of the Board's policies.



Our Mission

To enable all students to reach high levels of achievement and well-being and to acquire the knowledge, skills and values they need to become responsible, contributing members of a democratic and sustainable society.

We Value

- Each and every student's interests, strengths, passions, identities and needs
- A strong public education system
- A partnership of students, staff, family and community
- Shared leadership that builds trust, supports effective practices and enhances high expectations
- The diversity of our students, staff and our community
- The commitment and skills of our staff
- Equity, innovation, accountability and accessibility
- Learning and working spaces that are inclusive, caring, safe, respectful and environmentally sustainable

Our Goals

Transform Student Learning

We will have high expectations for all students and provide positive, supportive learning environments. On a foundation of literacy and math, students will deal with issues such as environmental sustainability, poverty and social justice to develop compassion, empathy and problem solving skills. Students will develop an understanding of technology and the ability to build healthy relationships.

Create a Culture for Student and Staff Well-Being

We will build positive school cultures and workplaces where mental health and well-being is a priority for all staff and students. Teachers will be provided with professional learning opportunities and the tools necessary to effectively support students, schools and communities.

Provide Equity of Access to Learning Opportunities for All Students

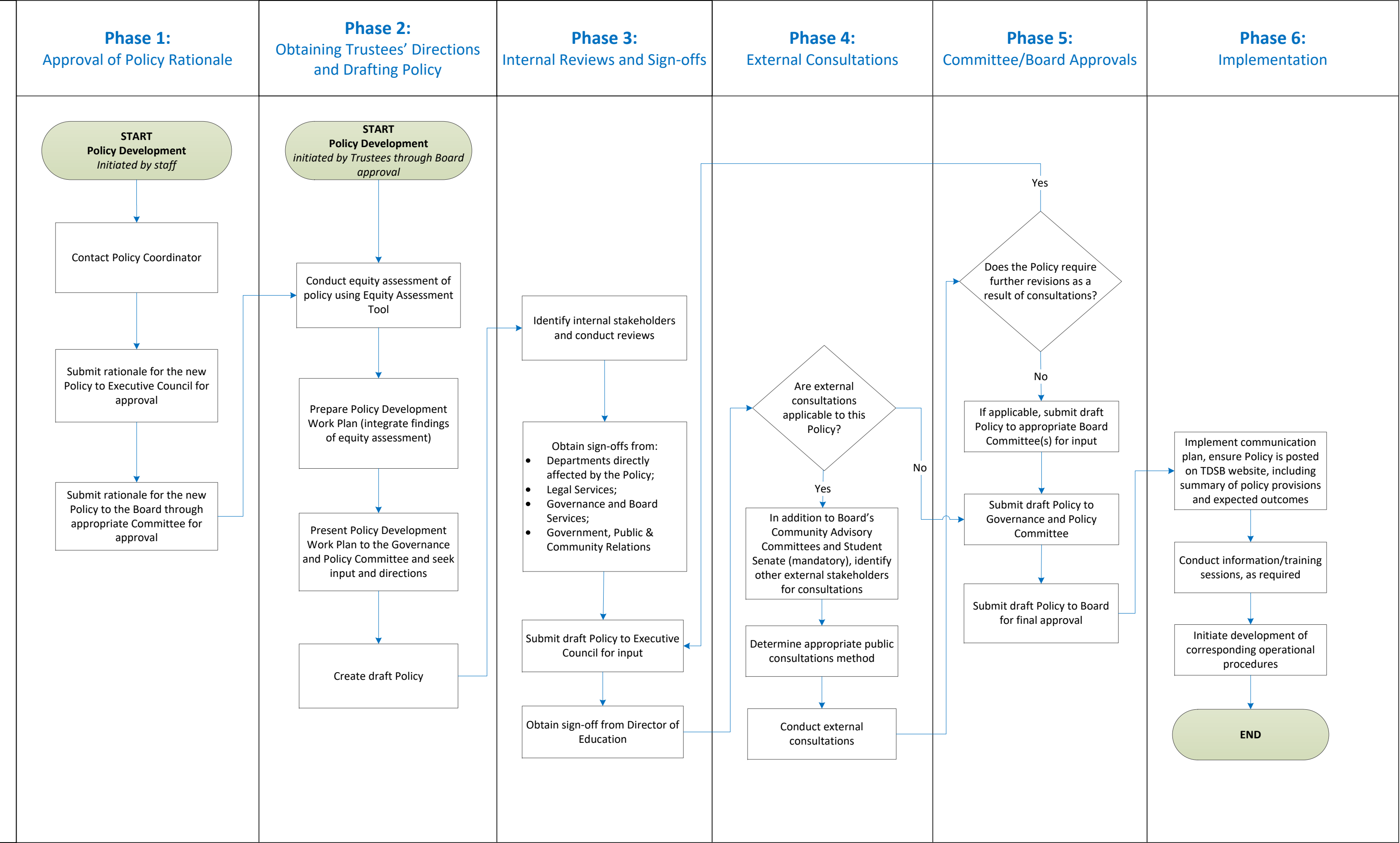
We will ensure that all schools offer a wide range of programming that reflects the voices, choices, abilities, identities and experiences of students. We will continually review policies, procedures and practices to ensure that they promote equity, inclusion and human rights practices and enhance learning opportunities for all students.

Allocate Human and Financial Resources Strategically to Support Student Needs

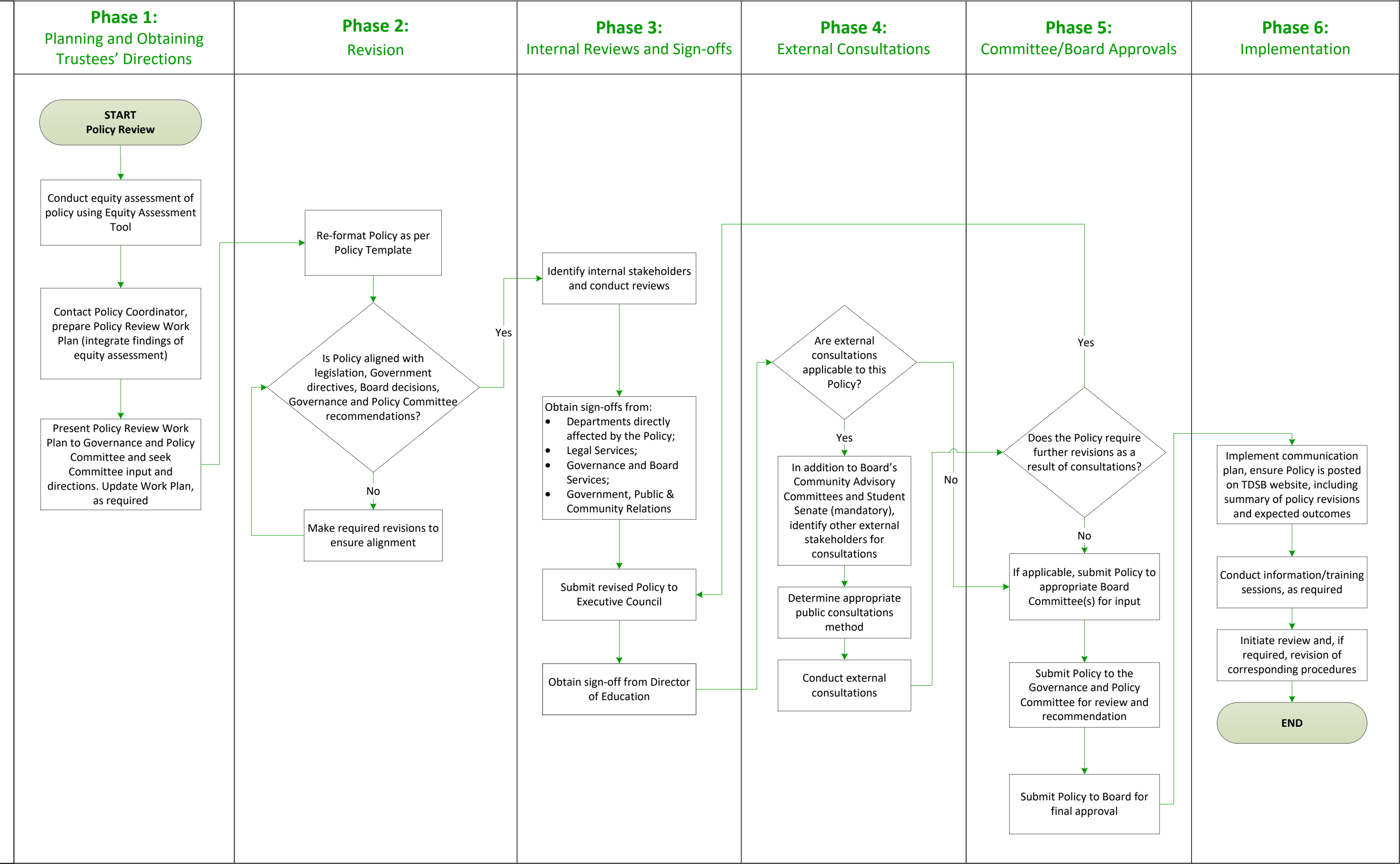
We will allocate resources, renew schools, improve services and remove barriers and biases to support student achievement and accommodate the different needs of students, staff and the community.

Build Strong Relationships and Partnerships Within School Communities to Support Student Learning and Well-Being

We will strengthen relationships and continue to build partnerships among students, staff, families and communities that support student needs and improve learning and well-being. We will continue to create an environment where every voice is welcomed and has influence.



POLICY REVIEW PROCESS



Acknowledgement of Traditional Lands

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Funding Information Requirement

At the special meeting held on March 7, 2007, the Board decided that to be in order any trustee motion or staff recommendation that would require the Board to expend funds for a new initiative include the following information: the projected cost of implementing the proposal; the recommended source of the required funds, including any required amendments to the Board's approved budget; an analysis of the financial implications prepared by staff; and a framework to explain the expected benefit and outcome as a result of the expenditure.

[1]Closing of certain committee meetings

(2) A meeting of a committee of a board, including a committee of the whole board, may be closed to the public when the subject-matter under consideration involves,

- (a) the security of the property of the board;
- (b) the disclosure of intimate, personal or financial information in respect of a member of the board or committee, an employee or prospective employee of the board or a pupil or his or her parent or guardian;
- (c) the acquisition or disposal of a school site;
- (d) decisions in respect of negotiations with employees of the board; or
- (e) litigation affecting the board. R.S.O. 1990, c. E.2, s. 207 (2).

(2.1) Closing of meetings re certain investigations – A meeting of a board or a committee of a board, including a committee of the whole board shall be closed to the public when the subject-matter under considerations involves an ongoing investigation under the Ombudsman Act respecting the board