



## Directive Against Harassment

<b>Department responsible:</b> General Administration	<b>Approved by:</b> _____ Director General
<b>Effective date:</b> January 1, 2003	<b>Amended:</b> March 21, 2006 by CC 2005/06-23, October 1, 2006, June 4, 2007 and May 5, 2008
<b>References:</b> Policy CC 2000/01-45 <i>Charter of Human Rights and Freedoms of Quebec (R.S.Q. c. C-12) / s. 4, 10, 10.1, 16 and 46</i> <i>Civil Code of Quebec / art.2087</i> <i>An Act Respecting Occupational Health and Safety (R.S.Q. c. S-2.1) / s. 9</i> <i>An Act Respecting Labour Standards (R.S.Q. c. N-1.1) / s. 81.18 and 81.19</i> <i>Youth Protection Act (R.S.Q. c. P-34.1) / s. 38(g) and 39</i> <i>Canadian Human Rights Act (R.S.C. 1985, c. H-6) / s.14(2)</i> <i>Criminal Code (R.S.C. 1985, c. C-46)</i>	

***Underlined article numbers identify provisions already adopted by the Council of Commissioners.***

The Kativik School Board recognizes that harassment constitutes an infringement of human rights and intends to maintain a harassment free learning and working environment.

### **1. Premises**

- 1.1 [purpose](#) This Directive sets out the types of behaviour that may be considered as harassment and establishes the procedure for receiving and investigating complaints in this regard.
- 1.2 [application](#) This Directive applies to all persons having a working or learning involvement with the Board. It also applies to all elected representatives, volunteers, persons subject to supervision and monitoring by the Board, as well as all external persons within the scope of their relationship to the Board (consultant, supplier, user, etc.).
- 1.3 [activities](#) This Directive applies to any and all activities related to teaching, research, work, orientation or to activities of a social nature, which are organized by the Board or its departments, its representatives, its schools or adult education centres. It also applies outside of school activities, when an employee holding a position of authority engages in harassment of a student under his authority.

- 1.4 [definitions](#) In this Directive, the following expressions mean:
- a) **school administration:** the Principal or the Centre Director of a school in the regular sector as well as in adult education, and for post-secondary students, the Post-Secondary Director of the KSB;
  - b) **student:** a person who is enrolled as a student in the School Board, in the regular or adult sectors, as well as a person enrolled in the post-secondary program of the board;
  - c) **respondent:** the alleged perpetrator of the actions that may constitute harassment;
  - d) **parent:** the father, mother of a student or, where applicable, any other person having the custody of, or parental authority over a student;
  - e) **complainant:** an employee or a student who thinks he has been harassed;
  - f) **Associate Secretary General:** the Associate secretary General of the School Board or, if absent, the Secretary-General;

## 2. Definition of Harassment

- 2.1 Harassment is a vexatious behaviour including actions, comments, conduct or gesture which is hostile, unwanted, insulting, intimidating, humiliating, hurtful, malicious, degrading, or otherwise offensive for any of the motives listed in the *Charter of Human Rights and Freedoms of Quebec*, the *Labour Standards Act* or the *Criminal Code*, that affects the person's dignity or psychological or physical integrity and that results in a harmful learning or working environment for that person.
- 2.2 [assault](#) Actions involving the use of force may constitute an assault rather than harassment. The provisions of this Directive do not apply in case of assault or any other type of aggression under the Criminal Code; in such cases, a complaint should be made to the police authorities.
- 2.3 [sexual abuse](#) Harassment in the form of inquiries, requests, comments, gestures, conduct or contact of a sexual nature, when they involve a complainant of minor age (or a parent filing a complaint on behalf of a minor) and a respondent who is a person in authority on this minor, shall be considered an allegation of sexual abuse and must be signalled to the Youth Protection Director by any person who has reasonable grounds to believe such an allegation, in accordance with section 39 of the Youth Protection Act. An inquiry conducted under this Act shall supersede the provisions of this Directive in such a case. However, if an investigation under this Directive is deemed expedient, it shall be conducted in such a way as not to hinder the work of Youth Protection, and under no circumstance shall it result in delaying to signal the case, in keeping with the Directive on the application of the Youth Protection Act (ADM-12).

### **3. Preliminary Action in Case of Harassment**

- 3.1 [preliminary action](#) Employees or students who think they have been subjected to conduct which constitutes harassment under this Directive are encouraged to make it known to the person responsible for the conduct that the behaviour is unwelcome, offensive and contrary to this Directive.

Should the conduct continue, it is suggested to the student to meet with the school administration and to the employee to meet with his immediate supervisor. However, it will be possible for the employee or the student, whether or not under the jurisdiction of the school administration, to contact directly the Associate Secretary General.

- 3.2 [initial meeting](#) At the first meeting, information is given to the complainant about:
- a) the possibility of resolving the situation informally;
  - b) the right to file a formal written complaint;
  - c) the available resources, including counselling;
  - d) the right to be represented by a person of the complainant's choice at any step of the complaint procedure;
  - e) other options and recourses, in particular the filing of a complaint under the *Charter of Human Rights and Freedoms of Quebec* or of a grievance under a collective agreement and the right to undertake proceedings under the Criminal Code, where applicable.

- 3.3 [who may file a complaint](#) Any employee or student who feels he has been the object of harassment can file a complaint.

The parents of a student who believes he has been the object of harassment can file a complaint on behalf of this student when he is legally underage.

- 3.4 [written complaint](#) Complaints should be written but verbal complaints are receivable. In this case, the person receiving the complaint will fill the form. See the form in **Annex A**.

- 3.5 [filing the complaint](#) The complaint must after be filed with the Associate Secretary General of the School Board by the School administration or the immediate supervisor. However, it will be possible for any employee or student, to file a complaint directly with the Associate Secretary General without having informed the school administration or immediate supervisor in advance, as suggested in section 3.1.

- 3.6 [writing of the complaint](#) The school administration, immediate supervisor or Associate Secretary General may provide assistance to the complainant in filling the complaint form.

## 4. Investigation on Harassment

- 4.1 [notice to the respondent](#) Upon receiving a complaint, the respondent shall be summoned and notified that a harassment complaint was filed against him. In the summon, the respondent shall be notified that he may be accompanied by a person of his choice or, where applicable, the union official.
- 4.2 [launching an investigation](#) Upon receipt of a harassment complaint, the Associate Secretary-General will order an investigation.
- 4.3 [measures of protection](#) The School Board may take immediate steps, at its discretion, to protect any person that may suffer prejudice.
- 4.4 [resources and means](#) Subject to the following paragraphs, the Associate Secretary General may call upon any resource or mandate any person to assist in the investigation, including without limitation the school administration, the Human Resources Department and Student counsellors to act as investigators, conduct interviews and collect the required information.
- When the complainant is a student, the local school administration, Student counsellor or another staff member of Education Services or of Adult Education should be called upon to assist in the investigation.
- When the complaint involves an employee, the Human Resources Department must be informed by the Associate Secretary General that an investigation is conducted.
- 4.5 [delay to conduct an investigation](#) Depending on the complexity of the case, the investigation should be completed within 45 days following reception by the Associate Secretary General of the complaint.
- 4.6 [steps to follow](#) The investigation shall consist of personal interviews with the complainant and the individual(s) against whom the complaint is filed, and may involve others who may have knowledge of the incident or circumstances giving rise to the complaint.
- 4.7 [information to be gathered](#) The investigator shall gather the following information:
- a) the circumstances surrounding the event;
  - b) the nature of the behaviour;
  - c) past incidents or past or continuing patterns of behaviour, or repetition of the harassment;
  - d) the relationships between the parties involved and the context in which the alleged incidents occurred;
  - e) whether there was any kind of consent or clear disapproval from the complainant at the time of the harassment.

Whether a particular action or incident constitutes a violation of this Directive requires a determination based on all the facts and surrounding circumstances.

- 4.8 [allegations not founded](#) Upon completion of the investigation, should allegations appear not to be founded, the Associate Secretary General shall notify the respondent(s) in writing of the outcome of the investigation.
- 4.9 [actions to be taken](#) Should allegations appear to be founded and should it appear that this Directive was violated, the Board may undertake any measure or use any recourse under collective agreements, administrative rules and provincial or federal law. This includes, without limitations, termination of appointment or dismissal.

## **5. Responsibilities**

- 5.1 [responsibilities](#) The School Board intends to:
- a) take reasonable action to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it;
  - b) discourage and prevent harassment;
  - c) ensure that any complaint of harassment is investigated;
  - d) impose appropriate disciplinary measures depending on circumstances, without regard for the status or seniority of the defendant whenever a harassment complaint is proven to be justified; and
  - e) provide counselling and support to employees or students who have been subject to harassment.

## **6. Reprisal**

- 6.1 The School Board will discipline or take appropriate action against any student or employee who retaliates against any person filing a complaint of harassment or against any person who testifies, assists or participates in an investigation relating to such harassment. Retaliation includes, without limitations, any form of intimidation, reprisal or harassment.

This also applies to elected representatives who would use their positions to intimidate individuals.

## **7. Right to Other Recourses**

- 7.1 The procedures described herein do not deny the right of any individual to pursue other avenue of recourse, which may include filing charges with the Human Rights Commission, initiating civil action or seeking redress under the Criminal Code or the filing of grievance under a collective agreement.

## **8. Immunity and Confidentiality**

- 8.1 [complainant protection](#) Providing it is done in good faith, the filing of a complaint regarding a case of harassment will in no way affect the complainant, with regard to his employment, or marks, or to the work he is assigned to do.
- 8.2 [loss of immunity](#) However, unjustified or false complaints, or slanderous accusations, can lead to disciplinary measures or law suits against the complainant.
- 8.3 [privacy](#) The School Board shall make every effort to respect the privacy of the complainant, respondents and witnesses, consistent with its legal obligation to investigate, to take appropriate action and to conform to any discovery or disclosure obligations.
- 8.4 [record](#) Substantiated allegations of harassment shall at no time be part of a complainant's employment or academic record.

## **9. Other Criminal Offences**

Employees and elected representatives of the School Board shall maintain total integrity towards children and the education system ; their involvement in activities such as described below is unacceptable and shall not be tolerated by the School Board. The School Board shall take immediate action against Individuals found guilty of this type of offences.

- 9.1 [criminal offence](#) It constitutes an offence as defined by the criminal code for any person to:
- a) make child pornography;
  - b) distribute or sell child pornography;
  - c) possess or access child pornography.
- [definition](#) Child pornography is defined as:
- d) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means, that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity;
  - e) any written material or visual representation that advocates or counsels sexual activity with a person under the age of eighteen years.

## **10. Application of this Directive**

- 10.1 [prior provisions](#) The present directive replaces all other directives of the Board pertaining to this subject, while respecting the policies adopted by the Council of Commissioners where applicable. If such policies are adopted, the provisions of these policies will be integrated into this directive for the benefit of the reader.
- 10.2 [responsibility](#) The Associate Secretary General is the person responsible for the application of this Directive.

**Annex A**  
*Harassment complaint Form*

**Filing this complaint shall involve the launching of an investigation**

1) Name of the complainant: \_\_\_\_\_

2) Date: \_\_\_\_\_

3) School or location: \_\_\_\_\_

4) Individual(s) suspected of harassment: \_\_\_\_\_  
\_\_\_\_\_

5) Description of harassment (*use additional pages if necessary*):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6) Date(s), time(s) and place(s) the event occurred:

\_\_\_\_\_

\_\_\_\_\_

7) Were there other individuals witnessing the harassment?

if so: a) name these persons:

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b) describe their role:

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8) What was your reaction to the harassment?

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9) Describe any prior incident:

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This complaint is filed based on my honest belief that \_\_\_\_\_  
has harassed me.

I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of complainant or parents/legal guardians



## Annex B

### *Summary of the procedure in case of harassment*

