

Section 4 Human Resources Management

4.3 Respectful Workplaces Policy

Policy Statement

APSEA is committed to promoting and strengthening a culture with a focus on equity, diversity, and inclusion. Provincial Human Rights Acts prohibit discrimination based on the protected characteristics set out in each Act. APSEA's policy goes beyond the parameters of legislation by prohibiting other types of workplace harassment. APSEA believes all employees have the right to work in an environment free from offensive behaviour, including harassment, sexual harassment, and discrimination. We all share the responsibility to treat each other with respect and consideration. This policy ensures shared understanding and expectations of how APSEA defines safe and positive behaviour in the working environment.

Offensive behaviours affect the workplace and the well-being of individuals and will not be tolerated. Whether the source of the offensive behaviour comes from within APSEA or outside, any allegation of offensive behaviour will be taken seriously and dealt with promptly. This policy promotes awareness, prevention and prompt resolution of offensive behavior and encourages employee involvement in resolving situations.

Definitions

Bullying - Is also referred to as psychological/personal harassment. Bullying often refers to offensive, abusive, intimidating, or insulting behaviour which makes the recipient feel upset, threatened, humiliated and/or vulnerable, which undermines the recipient's self-confidence and/or reduces their feelings of self-esteem and self-worth.

Conflict is not, on its own, bullying; however, conflict may escalate to the point where it becomes bullying. A single incident of unreasonable behaviour or incivility is not, on its own, bullying, but is also not acceptable and could be in breach of this policy.

Reasonable management action (in class or work setting) such as the allocation of work and giving fair and reasonable feedback, including performance feedback, is not bullying.

Civility - Behaviours that are courteous and polite. Civility and respect are based on showing esteem, care and consideration for others and acknowledging their dignity.

Contractor - Any individual or company (and its employees) who provides services to APSEA under a service contract.

Discrimination - Making a distinction, whether intentional or not, based upon a characteristic or perceived characteristic protected under the Human Rights Act. Discrimination includes action, behaviour, or attitudes, which could or ought reasonably to be known to offend or deny fair treatment based upon the protected characteristics set out in the applicable Provincial Human Rights Act.

Employee - A person whose terms and conditions are set out in accordance with a contractual agreement of employment with APSEA, as well as other direct employees performing work for APSEA.

Fairness - There are many forms of fairness. Decision makers under this policy will consider that complete fairness requires Procedural, Substantive, and Relational fairness.

- a. **Procedural Fairness** describes the duty of fairness that is most discussed in relation to administrative decisions, such as investigations. The two primary rights involved in Procedural Fairness are the right to be heard and the right to an unbiased decision. Procedural Fairness requires:
 - notice of the matter under consideration.
 - access to information that will be considered when the decision is made. APSEA considers personal privacy and safety factors when determining access to information.
 - the right to respond; a meaningful opportunity to be heard.
 - an impartial and unbiased decision maker.
 - reasons for the decision or outcome.
- b. **Substantive Fairness** relates to the fairness of the decision itself. Substantive fairness requires that decisions are:
 - made by those with appropriate authority to do so.
 - made with relevant information.
 - not unjust, oppressive, or discriminatory, or wrong in fact or law.
 - reasonable.
- c. **Relational fairness** describes how the person feels about the process, decision, or outcome. Relational fairness requires a decision maker:
 - provide attention, listening to points of view and evidence.
 - be approachable and easy to communicate with about the decision and decision-making process.
 - be honest and forthright in dealings with those affected by decisions.
 - respect confidentiality during and after the process.
 - be accountable, offer apologies if mistakes are made.
 - refrain from retaliation in any form. Reasons for the decision or outcome.

Harm(ful) - There is a genuine difference between being in conflict and causing harm or experiencing harm. Harm indicates a person has been wronged, treated unjustly, their rights have been violated in some way.

Harassment/Personal Harassment - Abusive, unfair, or demeaning treatment, consisting of words or actions that disparage or cause humiliation, offense or embarrassment to a person or group of persons that is known or ought reasonably to be known to be unwelcome. Harassment may consist of a repeated or persistent pattern of behaviours, direct or indirect, that when taken together constitute harassment; or a single act of sufficient severity to constitute harassment. Harassment can include, but is not limited to, comments or conduct based upon any of the characteristics protected under the Applicable Provincial Human Rights Act. Bullying is a form of harassment.

Incivility - Behaviours that are rude, discourteous, or insensitive, where there may be no clear intention to harm. Uncivil behaviours may create an environment in which offensive behaviour may occur, particularly when it forms a pattern of behaviour.

Investigation - A careful search or examination to discover facts.

Non-employee - A person who is not a direct employee of APSEA. This includes, but is not limited to, parents/guardians, volunteers, temporary agency employees, students on work-terms, and contractors.

Offensive Behaviour - Harassment, sexual harassment, or discrimination.

Toxic Learning / Working Environment - A toxic learning and working environment is characterized by activities or behaviours, not necessarily directed at anyone, that create a hostile or offensive learning and working environment.

Provincial Human Rights Acts - Includes the New Brunswick Human Rights Act, the Nova Scotia Human Rights Act, the Newfoundland and Labrador Human Rights Act and the Prince Edward Island Human Rights Act.

“Reasonably Ought to be Known or Have Known” - The “reasonably ought to be known or have known” standard refers to an objective assessment of how a specific behaviour might generally be received.

Resolution Options - Refers to a wide range of options to enable and support community members to resolve concerns or conflict. Please refer to the Respectful Community Guidelines for more information.

Respondent - An employee(s) or non-employee against whom allegations of offensive behaviour is made through the formal or informal complaint process; and includes a supervisor/manager who is alleged to have failed to take reasonable action in the circumstances to protect an employee from offensive behaviour.

Respectful Behaviour - Showing thoughtfulness, consideration, and care toward others in all interactions, recognizing the value in each person, and treating others with fairness and dignity. Includes an absence of offensive behaviour(s).

Restorative Practice - Restorative practices are used to foster a respectful learning and working environment by strengthening relationships between people and the community they share. Restorative practices include processes to proactively build relationships and a sense of community to help prevent conflict and concerns. Restorative practices are also used to respond to conflict and concerns by seeking to repair harm and restore the relationships and community affected.

Retaliation - Taking or threatening to take an unjustified employment action against an employee who has made a complaint or participated in an investigation under this policy. Retaliation may include any negative changes in the terms and conditions of an employee's employment, including transfers, changes in work schedule or assignments, negative performance evaluations, unwarranted discipline, harassment, denial of promotion or work schedule requests, or denial of training. Retaliation may also include any offensive behaviour toward the employee by another employee. Retaliation does not include a complaint or a response to a complaint, made in good faith under this policy.

Sexual Harassment

- Sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome.
- A sexual solicitation or advance made to an individual where the other individual can confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome.
- A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.
- Comments, gestures or physical conduct of a sexual nature, or actions or comments with a sexual connotation or component directed at no person but creates an intimidating, demeaning, or offensive work environment, where an individual knows or ought to reasonably know that the behaviour is unwelcome.

Supervisor/Manager - Any APSEA employee who has responsibility for the supervision of staff, including the Superintendent and Directors.

Systemic Discrimination - Can be described as patterns of behaviour, policies or practices that are part of the structures of an organization, and which create or perpetuate disadvantages, burdens or obligations, or which limit access to benefits, opportunities, or advantages based on characteristics protected under the Nova Scotia Human Rights Act.

Volunteer - Any person performing work for APSEA in an unpaid capacity.

Workplace - Any place occupied by an employee as part of their employment which includes, but is not limited to, virtual settings, lunchrooms, a home visit or work site, vehicle, training events, conferences, business travel, work-related social gatherings, or other location where an employee is engaged in activity associated with employment.

Policy Objectives

APSEA endeavors always to provide an environment that is supportive of working and of the equitable treatment of all employees.

APSEA is committed to:

- recognizing the dignity and worth of every person within the APSEA community and their right to be free from bullying, discrimination, and harassment.
- enabling early communication, education, and awareness of expected behaviours as well as unacceptable behaviours and the shared responsibility of employees to maintain a positive and civil community.
- preventing bullying, discrimination, and harassment.
- providing collaborative, efficient, clear, and timely approaches for dealing with concerns that arise out of this Policy.
- building a healthy working environment by improving and restoring relationships and community.
- taking reasonable precautions to maintain confidentiality, to the greatest extent possible, in the resolution of concerns raised through the Respectful Workplaces Policy.

Application

This policy applies to all APSEA employees, volunteers, committee members, and any individual in a contractual relationship with APSEA.

This Policy applies to behaviour that is connected to work or services provided and includes behaviour taking place in any physical or electronic sites where APSEA conducts business as well as behaviour taking place off APSEA sites if such behaviour has the potential to adversely impact the learning and/or working environment.

This Policy also applies to patterns of behaviour, and policies or practices that are part of the structures of the organization (i.e., systemic discrimination).

This policy applies to activities or behaviours, not necessarily directed at anyone, that create a hostile or offensive learning and working environment (i.e., toxic learning and working environment).

It is important to note that nothing in this policy restricts a supervisor's/manager's authority and obligation to manage the performance of employees or take appropriate disciplinary action when necessary.

Policy Directives

Information related to a Respectful Workplace concern, no matter the approach, will not be held in an employee's file. Disciplinary action resulting from a Respectful Workplace matter will be held on an employee's file in accordance with the appropriate collective agreement.

Concerns brought forward should be undertaken with great care because they may result in damage to an employee's reputation and disruptions in the workplace. Concerns brought forward which are frivolous, vexatious, or made in bad faith may result in disciplinary action against the complainant.

Accommodation and support will be provided to remove barriers to the concern process for those individuals who require them.

Retaliation is prohibited against anyone who has brought forward a concern or has participated in an investigation under this policy. Retaliation may result in disciplinary action.

Concerns should be raised as soon as possible and normally no later than one (1) calendar year following the last incident forming the basis of the concern. APSEA may extend the time in extenuating circumstances, in consultation with the Superintendent.

The rules of procedural fairness govern all activities under the Respectful Workplaces process. An individual against whom allegations of offensive behavior have been made shall be made aware of the allegations and be provided with opportunity to respond to them.

Concerns brought forward will be processed efficiently and as expeditiously as possible in the circumstances, in accordance with time limits established in this policy and related procedures. The Superintendent may extend deadlines where it is necessary to ensure procedural fairness or otherwise in the best interest of the parties.

Resolution Options

Employees should follow the Respectful Workplaces Procedure, which outlines approaches and options for the resolution of concerns that will allow members of the APSEA Community to collaboratively resolve issues, maintain effective relationships, and contribute to a positive, inclusive community culture.

The approaches used will address the impact of the behavior and respond to concerns in an effective, inclusive, and equitable way, and will use restorative practices in response to concerns under this policy whenever possible.

Selection of resolution option(s) does not supersede or eliminate the right of bargaining unit employees to the grievance procedure.

Other Options Available to Employees

Employees may, instead of using the Respectful Workplaces Procedures under this policy, file a complaint under any of the following options, where applicable.

- Grievance Procedure - Bargaining unit employees may file a grievance pursuant to the applicable collective agreement. For additional information about the grievance procedure, employees may contact their union.
- Complaint to the Provincial Human Rights Commission.
- Complaint under the Criminal Code.

Accountability

Each member of the APSEA community has a responsibility to foster a climate of understanding and mutual respect for the dignity and rights of everyone in all areas of the working environment. This includes providing fair treatment, being inclusive and not bullying, harassing, or discriminating.

We all share the responsibility to treat each other, and those who interact with APSEA, with civility and respect. Every member of the APSEA community has the responsibility to uphold our values and to understand the impact of their behaviour. Members of the community are expected to collaboratively resolve concerns, maintain effective relationships, and contribute to a positive, inclusive community culture.

APSEA employees must consider how social identity, culture, values, and beliefs impact perceptions of what is civil and respectful behaviour. Perceptions can also vary by place, time, and context. While factors such as identity may influence perception of behaviour, we will consider the impact of the behaviour and respond to concerns in an effective, inclusive, and equitable way.

The Superintendent and Directors are responsible to:

- Take all reasonable steps to ensure employees do not act offensively toward other employees, non-employees or children, youth, and families.
- Model respect.
- Respond to concerns against the Policy through the outlined process.
- Determine appropriate action in response to investigative findings.
- Determine whether further action is required where an individual wishes to abandon the Respectful Workplaces process.

Supervisors/Managers are responsible to:

- Take all reasonable steps to ensure employees do not act offensively toward other employees, non-employees or children, youth, and families.
- Model respect.
- Respond to allegations of behaviour against the Respectful Workplaces Policy through the outlined procedure.
- Determine whether further action is required where an individual wishes to abandon the Respectful Workplaces process.

Employees are responsible to:

- Treat all people with respect and dignity.
- Cooperate with respectful workplace processes.
- Abide by the human rights laws of their respective Province(s).

In response to concerns under this policy, APSEA's intention is to be restorative in approach and outcomes as appropriate. The purpose of a restorative approach is to build a healthy working environment by improving and restoring relationships between people and the community. Restorative practices are used to foster a respectful learning and working environment by strengthening relationships between people and the community they share.

Monitoring

The Superintendent of APSEA or their designate will review this policy annually.

References

- [Nova Scotia Human Rights Act](#)
- [New Brunswick Human Rights Act](#)
- [Newfoundland and Labrador Human Rights Act](#)
- [Prince Edward Island Human Rights Act](#)
- [Nova Scotia Occupational Health and Safety Act](#)
- Respectful Workplaces Procedures

This is an organizational policy designed to supplement other APSEA policies and is not intended to replace or preclude them. If a situation occurs where there is a conflict between application of this policy and any other APSEA policy, the policy most specific to the situation will apply.

Approval Dates

Approved: March 2016
Reviewed/Revised: February 2024