

Section 4 Human Resources Management

4.3 Respectful Workplace

Policy Statement

APSEA is committed to a healthy, safe and supportive workplace and to providing a work environment that values diversity and where all persons are treated with respect and dignity. The *Provincial Human Rights Acts* prohibit discrimination on the basis of the protected characteristics set out in the Acts. 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.

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

Complainant – An employee(s) who has made a complaint under this policy, whether formal or informal, alleging that offensive behaviour has occurred.

Discrimination – Discrimination as defined under the Provincial Human Rights Acts.

Harassment – Derogatory (e.g., condescending, insulting, belittling) or vexatious (e.g., aggressive, angry antagonistic) conduct or comments that are known or ought reasonably to be known to be offensive or unwelcome, and includes actions or comments that are directed at no person in particular, but that create an intimidating, demeaning, or offensive work environment. Bullying is a form of harassment.

Investigation – A careful search or examination in order 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.

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.

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 who is alleged to have failed to take reasonable action in the circumstances to protect an employee from offensive behaviour.

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

- i. Vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome.
- ii. A sexual solicitation or advance made to an individual where the other individual is in a position to 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.
- iii. A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.
- iv. Comments, gestures or physical conduct of a sexual nature, or actions or comments with a sexual connotation or component that are directed at no person in particular but that create an intimidating, demeaning or offensive work environment, where an individual knows or ought to reasonably know that the behaviour is unwelcome.

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

Workplace – Any place occupied by an employee as part of their employment which includes, but is not limited to, lunchrooms, a client’s home 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

This policy seeks to:

- Promote awareness for employees and create understanding as to what is considered offensive behaviour.
- Provide a work environment that is free from all forms of offensive behaviour.
- Ensure offensive behaviour is addressed and eliminated from the workplace.

Application

This policy applies to all APSEA employees and to all situations that involve employees as well as non-employees while working at APSEA or participating in APSEA programs.

Policy Directives

Supervisors are expected to be role models and take reasonable measures to ensure a work environment that is free from offensive behaviour. A supervisor who becomes aware of an alleged violation of this policy is required to take reasonable action in the circumstances to address the allegation.

Supervisors are expected to take all reasonable steps to ensure employees do not act offensively toward other employees, non-employees or clients.

Nothing in this policy restricts a supervisor's authority and obligation to manage the performance of employees or take appropriate disciplinary action when necessary.

All information regarding a complaint is to be treated as confidential and will be disclosed on a need-to-know basis only.

Information related to a Respectful Workplace complaint, whether formal or informal, will not be held on 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.

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

Support will be provided, as necessary, to remove barriers to the complaint process for individuals with disabilities and/or low literacy skills.

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

A complaint under this policy shall be made within 12 months of the alleged offensive behavior. In extenuating circumstances, complaints may be considered beyond 12 months, in consultation with the Superintendent.

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

Complaints 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

The following resolution options are available to all employees (see APSEA's Respectful Workplace Procedure for more information). Selection of either option does not supersede or eliminate the right of bargaining unit employees to the grievance procedure.

Informal Process

- Employees who believe they are experiencing offensive behaviour may choose to speak directly with the person(s) and inform them that their behaviour is unwelcome and must stop.
- Employees may choose to make an informal complaint to a supervisor.

Formal Process

- Employees may choose to make a formal complaint to the Superintendent.

Other Options

Complainants may, instead of the complaint 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

The Superintendent and Directors are responsible for:

- Modeling respect.
- Taking steps to create an environment free from offensive behaviour.
- Responding to allegations of offensive behaviour through the informal and formal complaint process.
- Determining appropriate action in response to investigative findings.
- Determining whether further action is required where an individual wishes to abandon a formal complaint.

Supervisors are responsible for:

- Modeling respect.
- Taking action to protect employees and others from offensive behaviour.
- Responding to allegations of offensive behaviour through the informal complaint process.
- Determining whether further action is required where an individual wishes to abandon an informal complaint.

Employees are responsible for:

- Treating all persons with respect and dignity.
- Cooperating with respectful workplace processes as required.

References

- Province of Nova Scotia Human Resources Management Manual Policy (Manual 500 - 4.9 Respectful Workplace Policy)
- Provincial Human Rights Acts
- Occupational Health and Safety Act
- Respectful Workplace Procedures

Accountability, Monitoring and Review

- The Superintendent is accountable to the APSEA Board of Directors for compliance with this policy.
- The Superintendent or his/her designate will review this policy annually.

Approval Dates

Approved: 24 March 2016
Revised:

Communication/Enquiries

For information about this policy, please contact the Superintendent (902/424-8500, apsea@apsea.ca).