

Policy 19. Harassment and Discrimination

19.1. Background

- Staff members and families will not tolerate abusive or obscene language or any threatening behaviour. Anyone who encounters harassment must ask offender to stop, document the incident including date, time, place, witnesses as well as exact words used, notify the Director and/or the Board.
- SCD recognizes the right of all children, parents, and staff members to be cared for and work in an environment free from personal, discriminatory or sexual harassment. SCD, all staff members, children, parents, and people within the SCD have a responsibility to promote, monitor and maintain daycare environments and workplaces that are free from harassment.
- Pursuant to The Occupational Health and Safety Act, 1993 (OHS Act): Harassment means any inappropriate conduct, comment, display, action or gesture by a person that constitutes a threat to the health or safety of the staff member that is either:
 - o Based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; or
 - o Adversely affects the staff member's psychological or physical well-being and that the person knows or ought reasonably to show would cause a worker to be humiliated or intimidated.

19.2. Definitions

- **Personal harassment** is defined as repeated, objectionable conduct or comment directed towards a specific person, or persons and has the effect of creating an intimidating, humiliating, hostile or offensive working or learning environment. It can also be a single, serious occurrence of conduct, or a single serious comment, display, action or gesture that has a lasting or harmful effect on the worker. Personal harassment does not include conduct or comments made in good faith in the exercise of supervisory rights and responsibilities.
- **Discriminatory harassment** is defined as discrimination contrary to the Human Rights Act and includes:
 - o Discriminatory acts against a child or parent with respect to the daycare environment or any program or service provided to the child because of race, color, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, or sexual orientation; and
 - o Discriminatory acts against a staff member with respect to the work environment or any term or condition of employment because of race, color, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, or age of that staff member or because that staff member has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person.
- **Sexual harassment** is defined as unwelcome sexual advances, comments, looks, suggestions, audio and visual material of a sexual nature, requests for sexual favors and other verbal or physical conduct emphasizing sexuality, sexual identity or sexual orientation when such conduct:
 - o Either explicitly or implicitly is a term or condition of an individual's daycare, employment, or any opportunity for training or promotion;
 - o Is used as a basis for education or employment decisions affecting another individual
 - o Interferes with an individual's daycare or work performance or creates an intimidating, hostile, offensive or uncomfortable daycare and work environment.

19.3. Procedures

19.3.1. Informal Complaint Process

- Complainants are encouraged but not required to immediately tell the harasser when conduct is considered inappropriate and unwanted and ask that the inappropriate or unwanted conduct stop.
- Before proceeding with a formal complaint, a staff member who believes he or she has a complaint of harassment may approach his/her supervisor or board of directors to discuss the potential means of resolving a complaint and to request assistance in resolving the matter on a formal or an informal basis.
- Before proceeding with a formal complaint, a child or parent who believes he or she has a complaint of harassment or who does not know how or is unable to confront the harasser, shall approach an educator, director, parent or trusted adult to obtain advice, support and skills or strategies to halt the harassment.
- Children, parents, and staff members are requested to record pertinent facts which detail alleged incidents.

19.3.2. Formal Complaint Process

- If you are unable to resolve the problem informally, proceed with a written or verbal formal complaint as outlined below:
 - **Procedures For Children and Parents**
 - Children and parents shall seek assistance from an educator, director, parent or other trusted adult.
 - Child and parent complaints shall be referred to the director or the board of directors.
 - **Procedures For Staff Members**
 - Staff members shall seek assistance from a colleague or director.
 - Staff members shall inform the board of directors.
- The board of directors will discuss options to resolve the complaint with the complainant. Where conflict cannot be promptly resolved in a matter satisfactory to the complainant, the board of directors will notify the alleged harasser, staff member or parent, with the information concerning the circumstances of the complaint and undertake a confidential investigation. A staff member, child, or parent accused of harassment will be notified in writing at the earliest opportunity by the board of directors.
- Staff members may choose a person(s) for moral support during any proceedings relating to the investigation of the complaint, providing no costs are incurred by the daycare.
- Children, parents, and excluded staff members may be accompanied by a person(s) of their choice for moral support during any proceedings relating to the investigation of the complaint, providing no costs are incurred by the daycare.
- No child, parent, or staff member shall be subject to reprisal, threat of reprisal or discipline as a result of filing a bona fide complaint of personal, discriminatory, or sexual harassment.
- It is recognized that false or malicious complaints may damage the reputation of, or be unjust to, children/parents or staff members and therefore disciplinary action will apply to any individual making a malicious claim.

19.4. Responding to a Formal Complaint

- A confidential investigation in accordance with due process will be undertaken, expeditiously, under the direction of the board of directors to substantiate and/or resolve the complaint.
- If the complaint is substantiated a written, confidential report is to be filed with the board of directors within one month after receiving a formal complaint.
- Appropriate disciplinary action will be taken within one month of receiving the written, confidential report. This action may include counseling and/or courses that develop an awareness of harassment, a verbal warning, a written warning, termination of childcare agreement, suspension and/or dismissal. Appropriate remedies toward the complainant may be cited in the written report.
- Harassers who take retaliatory action against children, parents, or staff members who have filed complaints will be subject to additional discipline.
- All unsubstantiated complaints will be reviewed with both parties and documentation provided to the individual falsely accused.
- Following the conclusion of the investigation, the employer will inform the complainant and the alleged harasser of the results of the investigation.

19.5. Supervisory Responsibility

- All staff members are responsible for promoting and maintaining a daycare environment free from personal, discriminatory or sexual harassment. Those staff members with supervisory roles are required to exercise supervisory rights and responsibilities either in the care of children and/or the work of staff. This policy does not take away the right to supervise, which may include verbal reminders, verbal warnings, written warnings, child, parent, or staff suspensions, termination of a childcare, or dismissal of staff member.

19.6. Confidentiality

- SCD will not disclose the identity of the complainant or alleged harasser or the circumstances of the complaint, except where disclosure is necessary for the purposes of investigating or taking disciplinary action in relation to the complaint, or where such disclosure is required by law.

19.7. Complaint to Human Rights Commission (Other Options for Complainants)

- The foregoing does not prohibit a person being harassed from making a complaint directly to the
- Saskatchewan Human Rights Commission. Nothing in this policy prevents or discourages an
- employee from referring a harassment complaint to OHS or The Saskatchewan Human Rights
- Commission. An employee also retains the right to exercise any other legal avenues available.