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POLICY GBAA

Protection of Employees, Students, and Non-Employees from Harassment and Discrimination

References:

- Quebec Human Rights and Freedoms Charter, sections 1, 4, 10, 10.1, 16 and 46;
- Commission des droits de la personne et des droits de la jeunesse (Québec);
- Civil Code of Québec, sections 3, 6, 7, 35, 36, 1457, 1458, 1463 and 2087;
- Canadian Human Rights Act (R.S.Q. H-6) /section 14 (2);
- Youth Protection Act (Québec);
- Act Respecting Labour Standards (R.S.Q. N-1.1, sections 81.18 to 81.20, 123.6 to 123.16);
- Act Respecting Occupational Health and Safety, section 9, section 51, subsections 3 and 5;
- Collective Agreements and decrees in effect.

NOTE: The masculine gender, when used in this document, refers to both women and men. No discrimination is intended.

1.0 PREAMBLE

- 1.1 The administration at the New Frontiers School Board (the “School Board”) has always expressed its firm intention not to tolerate any form of harassment and to ensure a safe learning and working environment in which everyone is respected and which is free of all violence, and verbal, physical, psychological and sexual threats.
- 1.2 The Board is committed to the values of civility, equity, respect, non-discrimination and an appreciation of diversity. All staff, students and non-employees may reasonably expect to pursue their work and other activities related to Board life in a safe and civil environment. All forms of harassment are an injury to the dignity and the integrity of the individual being harassed and will not be tolerated.
- 1.3 Various laws such as the *Quebec Charter of Human Rights and Freedom*, the *Civil Code of Quebec*, the *Act Respecting Industrial Accidents and Occupational Diseases*, the *Act Respecting Occupational Health and Safety* and the *Act Respecting Labour Standards* contain provisions or provide potential remedies related to harassment prohibited by law. Some cases of harassment may contravene provisions of the *Criminal Code*, as well.
- 1.4 Nothing in this Policy shall replace or supersede any complaint, grievance or appeal procedure set out in any collective or employee agreement to which the Board is a party.

2.0 DEFINITIONS

Non-employees

For the purposes of this policy, non-employees are defined as those individuals who are not employees of the School Board but who work in one or more School Board facilities or who, because of their special status, interact with School Board students or School Board employees. Examples of non-employees include, without limitation, commissioners, parents, professionals from other Ministries or organizations who work in our facilities, volunteers, outside contractors, and cafeteria workers.

Harassment

Not all insistent or annoying behaviour can be defined as harassment. Certain people in their capacity as administration representatives must at times be insistent when demanding that certain tasks be carried out in the interests of the School Board. Harassment is of a different nature and can be defined as follows:

2.1 Discriminatory Harassment

Discriminatory harassment is a form of behaviour characterized by repeated and unsolicited words, actions or gestures of a vexatious or contemptuous nature, that could either undermine the dignity or the physical or psychological integrity of the individual or lead to unfavourable working conditions or dismissal, based on any of the grounds enumerated in article 10 of the Charter of Human Rights and Freedoms.

Discriminatory harassment may be manifested in various ways. Racial, homophobic, sexist, or age-based or disability-based harassment may be manifested in the form of:

- Caricatures, graffiti;
- Jokes, practical jokes, innuendo, humiliating comments, offensive remarks;
- Disagreeable comments, insults, abuse;
- Dissuasion from applying for a position or promotion;
- Vandalism or damage to the victim's property (car, clothing, work tools) or workplace (locker, desk, etc.);
- Assault or other forms of aggression.

2.2 Sexual Harassment

Conduct manifested by repeated and unsolicited sexually connotative acts or gestures that could undermine the dignity or the physical or psychological integrity of the individual or lead to unfavourable working conditions or dismissal. Behaviour that constitutes sexual harassment includes:

- Unsolicited demands for sexual favours;
- Touching;
- Displays of degrading or pornographic material;
- Remarks, insults, jokes, comments of a sexual nature;
- Promises (e.g. promotion) based on the granting of sexual favours;
- Intimidation, threats, reprisals, refusals to grant employment or promotion, dismissals and other types of harm inflicted for the refusal of sexual favours.

In general, discriminatory harassment and sexual harassment involve repeated acts. However, a single serious act that has negative consequences may constitute harassment.

2.3 Racial and Ethnic Harassment

Racial or ethnic harassment is defined as any conduct or comment which causes humiliation to an employee because of their racial or ethnic background, their colour, place of birth, citizenship or ancestry. Behaviour which may constitute racial or ethnic harassment includes:

- Unwelcome remarks, jokes, or innuendos about a person's racial or ethnic origin, colour, place of birth, citizenship or ancestry;
- Displaying racist or derogatory pictures or other offensive material;
- Insulting gestures or practical jokes based on racial or ethnic grounds which create awkwardness or embarrassment;
- Refusing to speak to or work with someone or treating someone differently because of their ethnic or racial background.

2.4 Psychological Harassment

Vexatious conduct manifested by either repeated behaviour, words, actions or gestures that are hostile and unwelcome, and undermine the dignity or psychological integrity of an employee for whom the workplace becomes a hostile environment.

A single serious action can constitute psychological harassment if this action is undermining and has an on-going negative effect on the employee.

2.5 Misuse of Power or Authority

A form of harassment which occurs when a person unduly exercises the authority or power linked to their position with the intention of compromising a person's job, impeding their work performance or putting their means of subsistence in jeopardy. This type of harassment includes intimidation, threats and blackmail. This definition of misuse of power or authority must not restrict the authority of persons who have management responsibilities in fields such as work relations, performance evaluation and the implementation of disciplinary rules.

2.6 **Violence, Threats and Intimidation (i.e. in person, via internet, cellular phones, etc.)**

An action, comment or gesture which undermines a person's dignity or physical or psychological integrity, or is liable to make a person act against their will, by using force, threats or intimidation. Violence can be physical, verbal or psychological.

Physical manifestations: A physical assault aimed at injuring, tormenting or intimidating a person such as hitting, pushing, kicking, twisting or grabbing someone's arm, pulling hair, choking, spitting or biting, etc.

Verbal manifestations: Proffering insults or making defamatory, threatening or degrading remarks to a person or group.

3.0 **SCOPE OF THE POLICY**

This policy applies to every person working for the School Board. It also applies to any elected representative, volunteer, person responsible for supervising or monitoring the activities of the School Board. This policy applies during any teaching, research, work, guidance or activity organized by the School Board or its departments, representatives, schools or centres on board premises or elsewhere.

4.0 **POLICY STATEMENT**

By putting into force a policy on harassment, the school board intends to:

- 4.1 Discourage and prevent harassment;
- 4.2 Impose appropriate corrective measures when a complaint for harassment is deemed founded, and this regardless of the status or seniority of the respondent;
- 4.3 Guide and support the person(s) who were victim(s) of harassment;
- 4.4 Apply the principles of procedural fairness and confidentiality;
- 4.5 Respect the decision of a victim to pursue a complaint;
- 4.6 Protect the victim against reprisals;
- 4.7 Ensure that the application of this policy does not prevent the victim from exercising other recourses.

5.0 **POLICY OBJECTIVE**

This policy applies to interpersonal situations within the Board's jurisdiction which may arise among or between any of the following persons: employees, non-employees and students.

The main objectives of this policy are the following:

- 5.1 The New Frontiers School Board affirms its commitment to all applicable legislation relative to harassment and/or discrimination;
- 5.2 All complaints of harassment and/or discrimination and investigations of same will be conducted in a confidential manner in accordance with the provisions of **Organizational Guide GBAA**;
- 5.3 Prevention is the best means to ensure a safe and secure work climate;
- 5.4 A personal and human approach is required to deal with situations of harassment and discrimination;
- 5.5 Harassment and/or discrimination require intervention, support and appropriate follow-up.

6.0 **COMMITMENT AND RESPONSIBILITIES**

6.1 **Responsibilities of the School Board**

The School Board believes that every employee has the right to a working environment that is free of harassment and violence. Consistent with this moral and legal obligation, the School Board:

- a. Ensures that no employee is the victim of harassment or violence;
- b. Takes disciplinary action against those found guilty of harassment or violence, up to and including termination of employment.
- c. Takes all possible steps to maintain a working environment that is free of all forms of harassment.
- d. Ensures that the parties concerned, both the complainant and the alleged harasser, are treated equally.

Should the Director General be the object of a complaint, the file shall be referred to the chair of the Council of Commissioners.

6.2 **Director General**

- a. Supports the circulation of the policy and the **organizational guide**.
- b. Ensures the application of the policy in all of the schools, centres and services of the School Board.

6.3 Human Resources Department

- a. Prepares the policy and other documentation.
- b. Circulates the policy.
- c. Informs and sensitizes people about the policy.
- d. Supports the application of the policy in all of the schools, centres and services of the School Board.
- e. Assists and provides support to anyone involved in a situation of harassment or discrimination.
- f. Manages the complaint procedures, with the exception of complaints that involve staff of the Human Resources Department or of students among themselves.

6.4 Board Administrators

- a. Contribute to maintaining a harmonious learning and working environment within their school, centre or service that is free from harassment or discrimination.
- b. Ensure the application of the policy in their school, centre or service.
- c. Participate in informing and sensitizing people in their school, centre or service.
- d. Collaborate in the application of preventative measures or corrective measures against harassment or discrimination.
- e. Intervene quickly with diligence and in confidentiality,
- f. Follow the process for application of this policy, when a situation is brought to their attention. In order to do so, they may call upon the services of the Human Resources Department or a resource person.

6.5 Internal Individuals

- a. Contribute to maintaining a healthy learning and working environment by behaviours and attitudes that are free from harassment and discrimination.
- b. Report to the appropriate person(s) any forms of harassment and/or discrimination that they witness.
- c. Participate in activities related to this policy.

6.6 Individuals

- a. Contributes to maintaining a healthy learning and working environment by behaviours and attitudes that are free from harassment and discrimination.

6.7 Unions and Associations

- a. Collaborate in the development of a workplace free from harassment and discrimination.
- b. Contribute in the development and promotion of the policy.
- c. Collaborate with the Human Resources Department to put in place preventative measures and/or corrective measures related to harassment and/or discrimination.

7.0 COMPLAINTS

- 7.1 It is imperative that complaints be reported and investigated in order to assist the Board in taking steps to remedy alleged situations of harassment and to prevent recurrences. The procedure to be followed can be found in the **Organizational Guide GBAA**.
- 7.2 The internal procedures for processing complaints provided for in the **Organizational Guide GBAA** in no way prevents anyone from exercising another recourse, such as filing a complaint with the Human Rights Commission or *the Commission des normes du travail*, or taking civil action, or taking action under the Criminal Code, or filing a grievance by virtue of a collective agreement.
- 7.3 All conduct considered as harassment or violence is punishable by disciplinary action up to and including termination of employment.

8.0 REPRISALS

The school board will take disciplinary measures or other measures against any employee or individual who takes reprisals against a person who filed a complaint or is involved in an inquiry for harassment. Reprisal includes any form of intimidation, threat, retaliation or harassment.

9.0 CONFIDENTIALITY

- 9.1 Provided that the complainant acts in good faith, the filing of a complaint for harassment will not affect his employment or the tasks assigned to him.
- 9.2 However, unfounded or frivolous complaints or false accusations may result in disciplinary measures or actions against the complainant.

- 9.3 When fulfilling its obligations to conduct an inquiry, take appropriate measures and apply the principles of procedural fairness and confidentiality, the school board is expected to respect as far as is possible the private life of complainants, respondents and witnesses.
- 9.4 All information relating to the complaint, as well as the identity of the persons concerned, must be kept confidential by all parties involved unless this information is required for processing the complaint or for the application of the agreement or for taking administrative or disciplinary actions.

10.0 APPLICATION OF THIS POLICY

The Director General is responsible for the application of this policy. This policy replaces any other policy on harassment previously adopted by the school board or previous school board.

Exceptional measures: In a serious or urgent situation, the Director General can adopt and apply, with regard to an employee of the School Board towards whom serious allegations of harassment have been made, exceptional measures when the latter are deemed necessary to ensure the protection of every person.

End.