

# Workplace Harassment 2020 V3

## 1. Workplace Harassment

### 1.1 Title



#### Notes:

The Workplace Harassment and Workplace Sexual Harassment training module was developed in accordance with the GECDSP's Workplace Harassment and Sexual Harassment Prevention Management Program under Policy BA-06.

## 1.2 Introduction



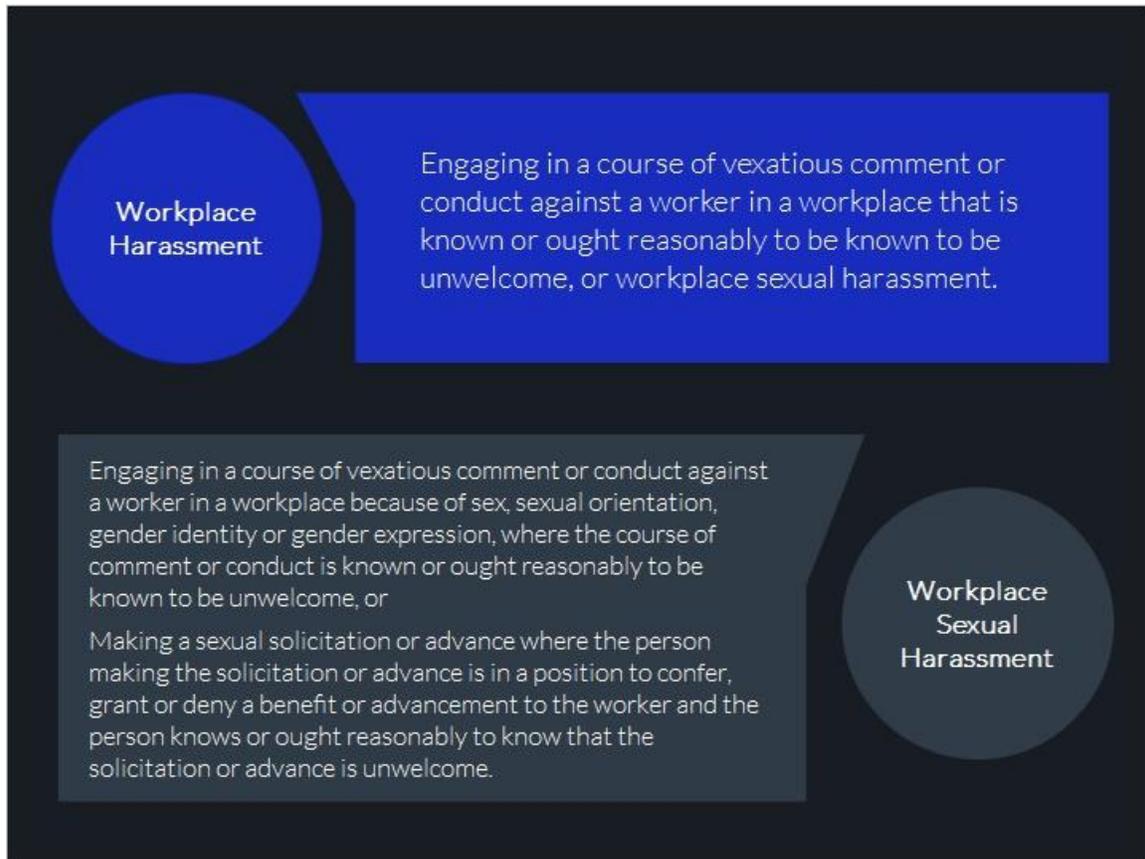
### Notes:

Workplace harassment can undermine a person's dignity. It can prevent workers from doing their jobs effectively. Workplace harassment, left unchecked, has the potential to escalate into violent behaviour.

The Greater Essex County District School Board supports protection from Workplace Harassment and Workplace Sexual Harassment as defined under the Ontario Human Rights Code and the Occupational Health and Safety Act for all employees.

Harassment in the workplace is unacceptable.

## 1.3 Definitions



### Notes:

What is Workplace Harassment?

OHSA defines "Workplace Harassment" as:

Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or workplace sexual harassment.

What is Workplace Sexual Harassment?

OHSA defines "Workplace Sexual Harassment" as:

a) Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

b) Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

## 1.4 Clarification

<h3>Clarification</h3> <p>When assessing whether the behaviour is harassment consider the components of the definition</p>	<b>Course</b> A pattern of behaviour over a period of time which has a negative effect (can also be single incident)	<b>Vexatious</b> Not having sufficient reason and or seeking only to annoy or irritate
	<b>Comment or Conduct</b> Behaviours can include but are not limited to conversation, jokes, posters, name calling, threats, emails etc.	<b>Workplace</b> Board offices, buildings, other locations during or outside working hours, including telephone, social media
	<b>Known or Ought Reasonably to Be Known</b> The accused harasser is aware the behaviour is inappropriate or others perceive the behaviour to be inappropriate	<b>Unwelcome</b> Unwanted behaviour It may be difficult to object to the unwelcome behaviour

### Notes:

Let's examine the components of the Workplace Harassment definition.

**A course:** In almost all cases, harassment is a pattern of behaviour occurring over a period of time which has a negative effect on the target(s) and/or the environment. However, one single incident can constitute harassment when it is demonstrated that it has caused significant effect on the target and/or the environment.

**Vexatious:** Means not having sufficient reason and or seeking only to annoy or irritate.

**Comment or Conduct:** Behaviours can include but are not limited to conversation, jokes, posters, calendars, name calling, threats, emails, screen savers, etc.

**Workplace:** The workplace is not confined to Board offices and buildings. Protection against acts of harassment and/or sexual harassment extends to incidents occurring away from Board offices and buildings, during or outside normal working hours. This includes a) any location and all facilities where the business of the Board is being carried out; and b) other locations and situations, such as on the telephone, after hours social activities, other activities, or other locations where the prohibited behaviour may have a subsequent impact on the work

relationship, environment or performance. This may include electronic and/or social media communications.

Known or Ought Reasonably to Be Known: Both subjective (i.e., the accused harasser is aware that the target feels the behaviour is inappropriate) and objective (i.e., a reasonable third party would feel that the behaviour was inappropriate) are considered.

Unwelcome: This is the key aspect of the definition. Consideration must be given to the reasonableness of whether the behaviour is considered unwelcome. It is important to note that there is no requirement that the person expressly objects to the unwelcome behaviour. It is recognized that where harassment is present, it may be difficult, perhaps risky, to object to a person's behaviour, particularly when that person holds authority over the target (such as a supervisor).

## **1.5 Examples of Workplace Harassment**

**Examples of Workplace Harassment**

- Offensive or intimidating comments or jokes
- Bullying or aggressive behaviour
- Displaying or circulating offensive pictures or materials
- Demeaning or derogatory remarks

**Examples of Workplace Sexual Harassment**

- Unwelcome comments about a colleagues appearance
- Inappropriate staring
- Isolating or making fun of a worker because of gender identity

### **Notes:**

Examples of workplace harassment are:

- Offensive or intimidating comments or jokes;
- Bullying or aggressive behaviour;
- Displaying or circulating offensive pictures or materials;
- A staff member repeatedly making demeaning and derogatory remarks to others that are intended to belittle a colleague.

Examples of workplace sexual harassment are:

- A staff member repeatedly makes unwelcome comments about a colleagues appearance
- Inappropriate staring;
- Isolating or making fun of a worker because of gender identity

Comments and/or behaviours beyond this may also constitute workplace harassment or workplace sexual harassment and would also be prohibited.

## ***1.6 What is not Workplace Harassment?***

### **What is not Workplace Harassment?**

Differences of opinion or minor disagreements between coworkers

Reasonable action by an employer or supervisor related to management and direction of workers or the workplace

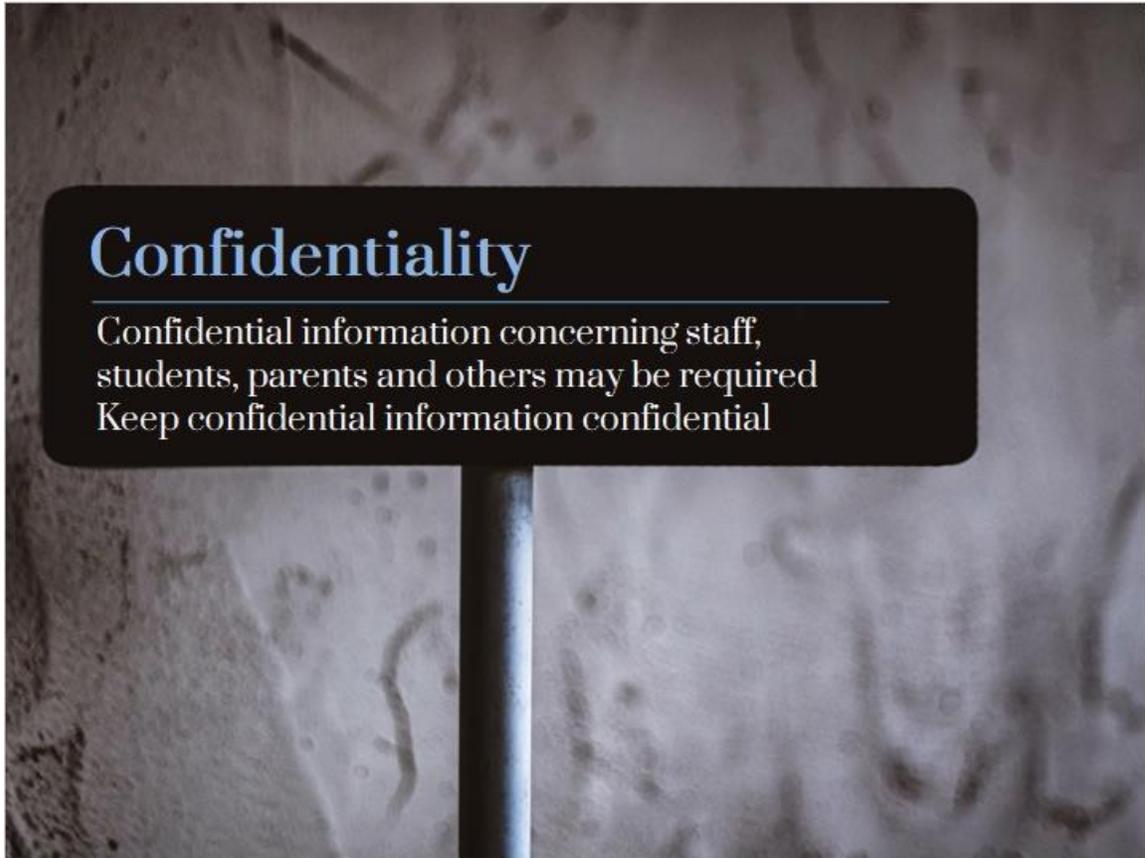
#### **Notes:**

What is not Workplace Harassment?

Difference of opinion or minor disagreements between coworkers do not constitute workplace harassment.

A reasonable action by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment. Examples would be legitimate requests to comply with rules or standards (e.g. employee performance standards, attendance requirements) or appropriate disciplinary action.

## **1.7 Confidentiality**

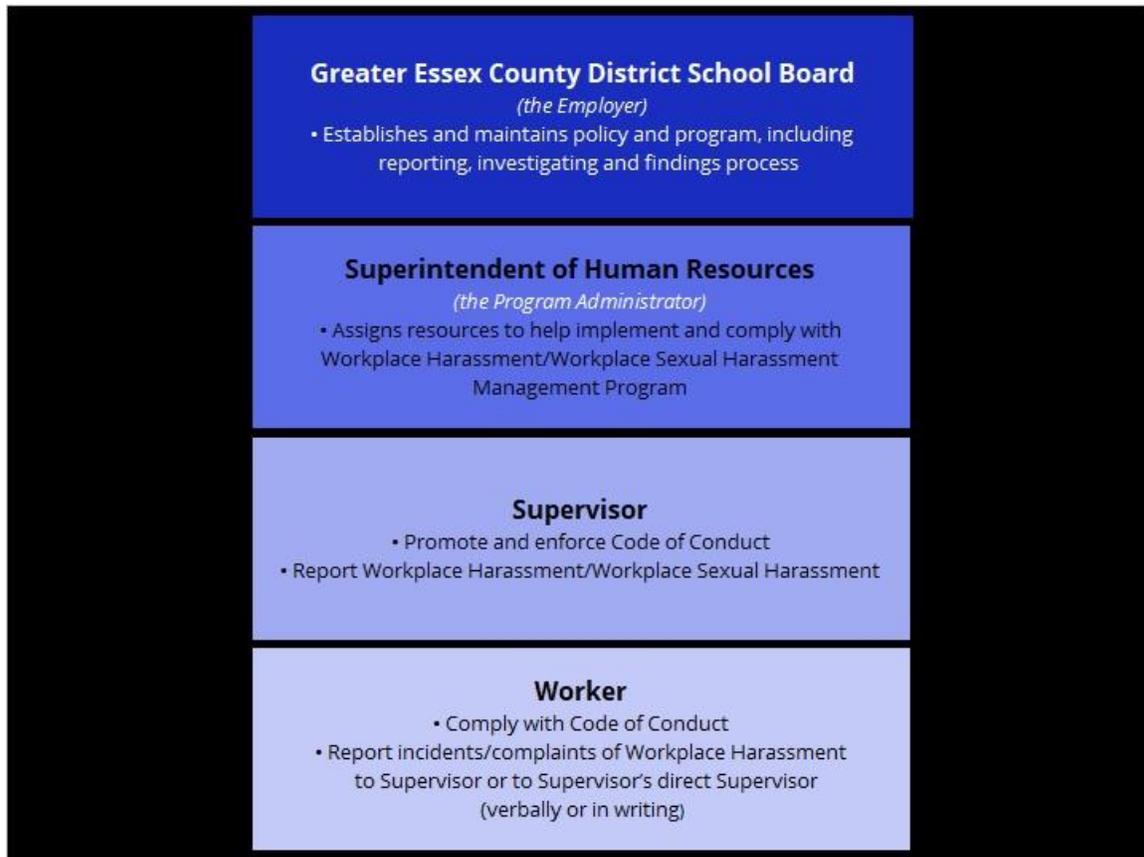


### **Notes:**

While implementing and maintaining the Workplace Harassment/Workplace Sexual Harassment Management Program, confidential information concerning staff, students, parents, and others may be required.

All Board employees are expected to keep confidential information confidential and only disclose information as it is appropriate within their role and in compliance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

## 1.8 Duties



### Notes:

The Board, as the employer, is responsible to protect all workers from Workplace Harassment and Workplace Sexual Harassment.

To do this, it has established and maintains a Workplace Harassment / Workplace Sexual Harassment Policy and Management Program.

If a complaint is made the Board investigates the complaint and takes corrective action to prevent a reoccurrence.

The Superintendent of Human Resources is the Program Administrator. They assign resources to ensure implementation and compliance of the Workplace Harassment/Workplace Sexual Harassment Management Program.

All supervisors are required to promote and enforce the Employer's Code of Conduct. Supervisors have the duty to report Workplace Harassment/Workplace Sexual Harassment. The supervisor or their superintendent shall notify the Superintendent of Human Resources to ensure an investigation is conducted.

All workers are required to comply with the Employer's Code of Conduct. Workers have the duty to report incidents or complaints either verbally or in writing to their supervisor.

If the supervisor is the subject of concern, the incident or complaint should be reported to their supervisor's direct supervisor.

For example, if the worker is a teacher and the proposed subject of concern is the principal, the teacher would report such items to the principal's supervisor, being their superintendent.

If an employee requires further assistance they may contact their Occupational Joint Health & Safety Committee Member, the Human Resources Department, the Health and Safety Officer, their Union Representative or the Employee Assistance Program.

## 1.9 Codes of Conduct

### Codes of Conduct

Use appropriate language  
Treat others with dignity and respect  
Respect differences in people  
Do not engage in any form of bullying  
Do not threaten or intimidate another person  
Do not engage in hate propaganda

For more information see AP-AD-62 and R-HR-09

#### Notes:

Codes of Conduct have been established for all employees, students, parents, visitors, and contractors.

Please remember the following with respect to Workplace Harassment/Workplace Sexual Harassment:

School members must follow all applicable laws, use appropriate language, treat others fairly, with dignity and respect, regardless of race, colour, ethnicity, religion, gender, sexual orientation, age, or disability.

School members shall not engage in any form of bullying, whether in person or through technology, threaten or intimidate another person or engage in hate propaganda or other types of behaviour caused by hate or bias.

Please see the Safe Schools Code of Conduct Administrative Procedure AP-AD-62 and Employee Standards of Conduct Regulation R-HR-09 for more information.

## 1.10 Digital Responsibility



### Notes:

When using technology all school members must remember the following:

- Never impersonate, pose as another person, or falsify your identity in any way.
- Never access or share pornography or offensive material.
- Maintain and respect the security, privacy, and integrity of others. If the Board deems digital content to be personal and confidential, do not access, copy, or circulate the material without authorization.
- Always use a respectful tone in digital communications. Never use profanity, or make racist or sexist remarks. Do not send or forward emails containing libelous, hateful, or obscene remarks - even if they are meant to be a joke.
- Never send messages that promote or slander a political party or candidate.

Please reference the Board's Digital Responsibility Regulation R-IT-03 for more information.

## ***1.11 Reporting and Investigating***



### **Reporting and Investigating**

All incidents/complaints must be reported immediately verbally or in writing

#### **Notes:**

An incident or complaint of Workplace Harassment/Workplace Sexual Harassment must be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a timely manner.

As previously mentioned the incident can be reported verbally or in writing.

## 1.12 Report Form

# Report Form

Name of worker(s)  
Name of alleged harasser(s)  
Name of witnesses (if any)  
Details of incident



GREATER ESSEX COUNTY DISTRICT SCHOOL BOARD

APPENDIX A  
WORKPLACE HARASSMENT / WORKPLACE SEXUAL HARASSMENT  
REPORT FORM

A copy of this completed report form is to be submitted to the Staff Intranet Resource Dashboard (see section 4.2).  
Last Revised November 7, 2016.

Workplace Harassment / Workplace Sexual Harassment incidents or complaints can be reported either verbally or in writing. If such an incident or complaint is being submitted a written format the Employer encourages the usage of this form.

Please note that regardless of verbal or written the Employer is still obligated to ensure an investigation appropriate to the circumstances is completed into an incident of Workplace Harassment / Workplace Sexual Harassment upon becoming aware.

REQUIRED INFORMATION

1. Name(s) of the Worker who has allegedly experienced Workplace Harassment / Workplace Sexual Harassment and contact information:  
\_\_\_\_\_  
\_\_\_\_\_

2. Name of the alleged harasser(s), position and contact information (if known):  
\_\_\_\_\_  
\_\_\_\_\_

3. Name(s) of witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known):  
\_\_\_\_\_  
\_\_\_\_\_



### Notes:

If submitting a written incident/complaint, please use the Workplace Harassment/Workplace Sexual Harassment Report Form. Paper copies of the form can be found in the Emergency Resources Manual (yellow binder) or electronically on the Staff Intranet under Health & Safety or on the Online Incident Reporting Tool.

### 1.13 Who Investigates?

## Who investigates?

Superintendent of Human Resources determines who will investigate (Supervisor, Human Resources or Third Party)

Investigation must be completed 90 calendar days from when it was reported (unless extenuating circumstances)

#### Notes:

Who Investigates an incident or complaint of Workplace Harassment/Workplace Sexual Harassment?

The Superintendent of Human Resources or their designate will ensure an investigation appropriate in the circumstances is conducted when the Employer, Supervisor or Human Resources Department becomes aware of the incident or complaint.

If a Supervisor or Senior Management person is alleged to be the subject of concern, then Human Resources may retain a third party consultant to conduct the investigation.

What is the timing of the investigation?

The investigation must be completed within 90 calendar days or less from when it was reported, unless there are extenuating circumstances (i.e. illness, complex investigation) warranting a longer investigation.

## 1.14 Investigation Process

# Investigation Process

Remind all parties of confidential obligation  
Interview worker and alleged harasser(s)  
Give both parties time to respond to allegations  
Interview any witnesses  
Review interview notes and relevant documents  
Prepare a summary report of findings

Within 10 days of the completed investigation the worker and alleged harasser will be informed of the results and corrective actions.

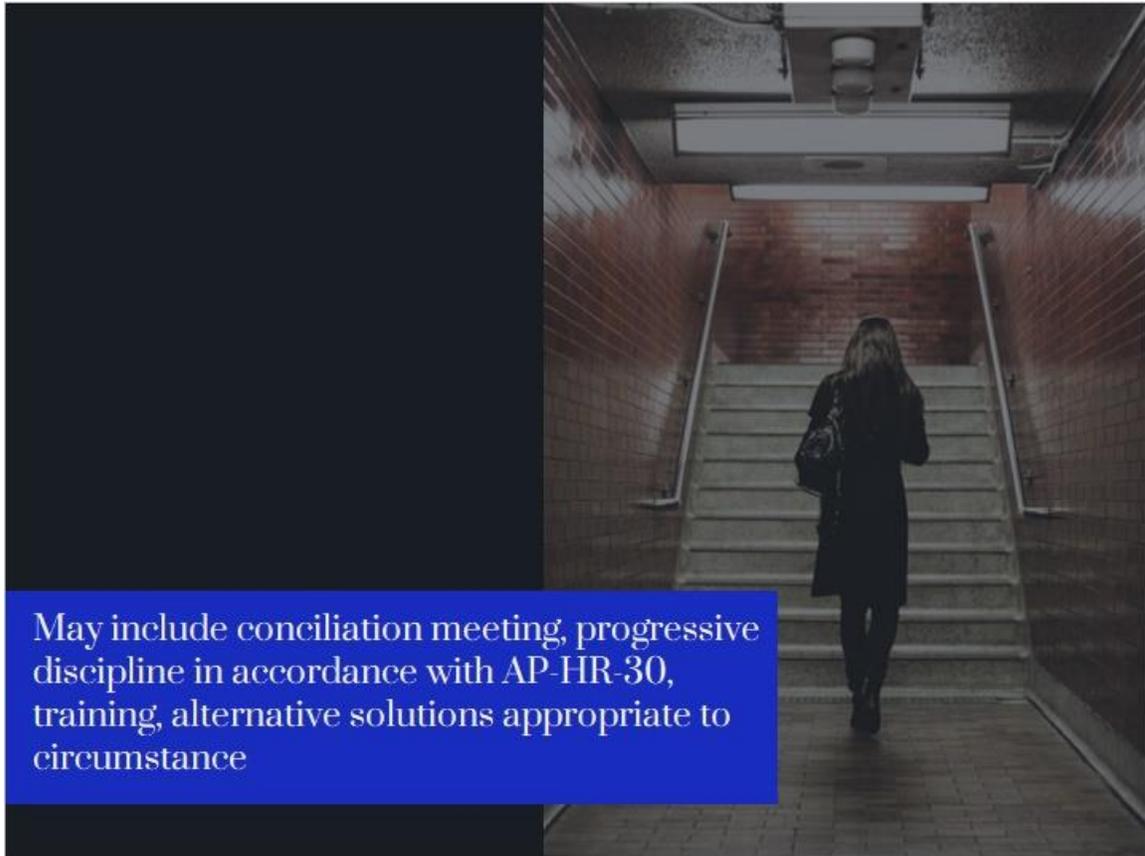
### Notes:

The person conducting the investigation whether internal or external to the workplace will, at a minimum, complete the following steps:

- Ensure the investigation is kept confidential and remind all parties of this confidential obligation.
- Thoroughly interview the worker who allegedly experienced the Workplace Harassment/Workplace Sexual Harassment and the alleged harasser or harassers.
- The alleged harasser or harassers must be given the opportunity to respond to the allegations and in some circumstances the worker should be given the opportunity to reply.
- Interview any relevant witnesses.
- Review interview notes and any relevant documents.
- Prepare a report summarizing the steps taken during the investigation, the concerns, the allegations of the worker, the response from the alleged harasser, witness accounts and evidence gathered. The report must set out findings of fact and conclusion about whether Workplace Harassment/Workplace Sexual Harassment was found or not.

Within 10 calendar days of the investigation being completed and the receipt of the findings, the worker and the alleged harasser will be informed in writing of the results of the investigation and any corrective actions taken or that will be taken to address.

## 1.15 Corrective Actions



May include conciliation meeting, progressive discipline in accordance with AP-HR-30, training, alternative solutions appropriate to circumstance

### Notes:

The corrective actions flowing from an investigation may include:

- A conciliation meeting of the involved parties
- Progressive Discipline in accordance with AP-HR-30 Correcting Employee Behaviour and Progressive Discipline
- Training
- Alternative solutions appropriate in the circumstances.

If the accusations are discovered to be vexatious (not having sufficient reason and/or seeking only to annoy or irritate) , the accuser may face disciplinary action up to and including the termination of employment.

## ***1.16 Scenarios***



### **Notes:**

Take a few moments to review each scenario and determine whether the situation meets the definition of workplace harassment and or workplace sexual harassment.

## 1.17 Scenario 1a

# Scenario #1a

Meet Sandra and Craig. Craig is sending joke emails poking fun at older adults.



Craig, I find these jokes you've been emailing around very offensive.



I'm so sorry Sandra. I didn't mean to offend you. I thought the jokes were funny and everyone would laugh. I won't send anymore, I promise.

**Does this meet the definition of workplace harassment?**

No, if Craig stops the behaviour. However, it may violate Board policies with respect to code of conduct and inappropriate use of Board technology.

### Notes:

Sandra and Craig are Teachers.

Craig is sending joke emails poking fun at older adults. Sandra tells Craig she finds the jokes offensive. Craig apologizes and tells Sandra it won't happen again.

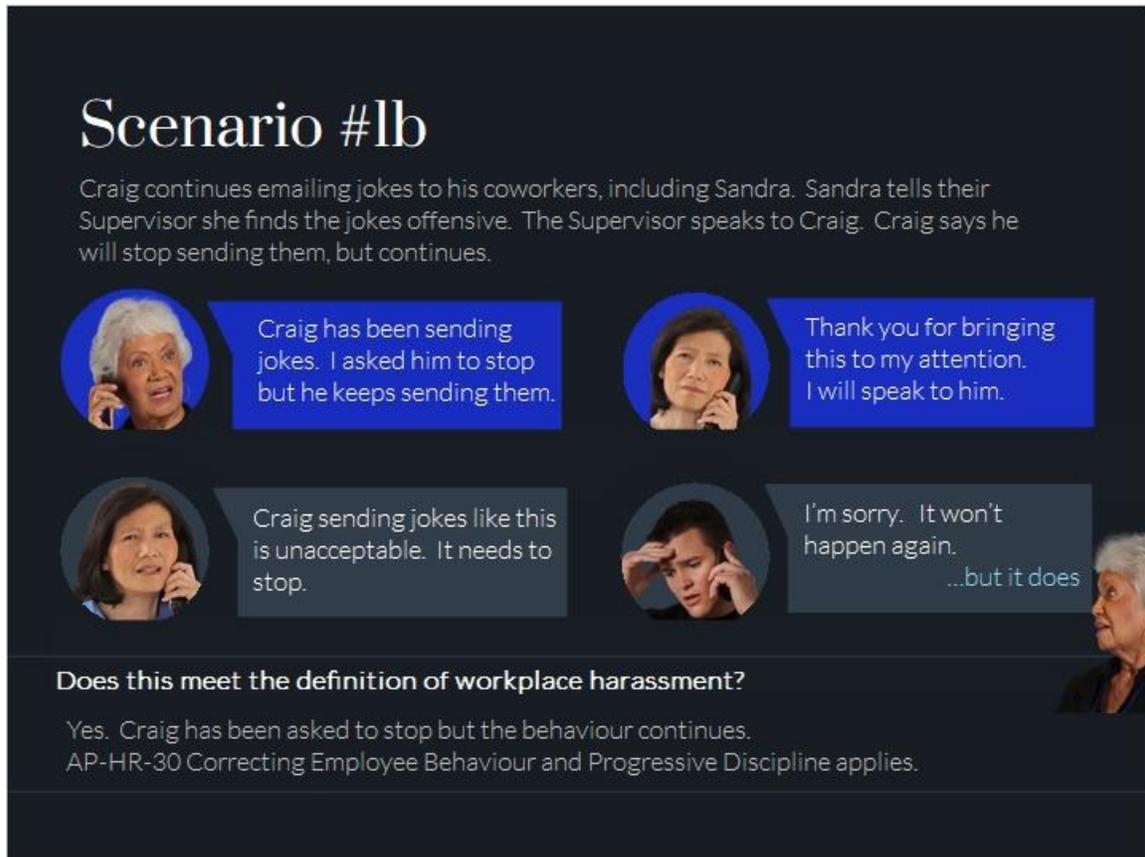
Does this meet the definition of workplace harassment? No, if Craig stops the behaviour, it is not harassment. However, it may violate Board policies with respect to code of conduct and inappropriate use of Board technology.

One single incident can constitute harassment when it is demonstrated that it has caused significant effect on the target and/or the environment.

## 1.18 Scenario 1b

# Scenario #1b

Craig continues emailing jokes to his coworkers, including Sandra. Sandra tells their Supervisor she finds the jokes offensive. The Supervisor speaks to Craig. Craig says he will stop sending them, but continues.



Craig has been sending jokes. I asked him to stop but he keeps sending them.

Thank you for bringing this to my attention. I will speak to him.

Craig sending jokes like this is unacceptable. It needs to stop.

I'm sorry. It won't happen again. ...but it does

**Does this meet the definition of workplace harassment?**

Yes. Craig has been asked to stop but the behaviour continues.  
AP-HR-30 Correcting Employee Behaviour and Progressive Discipline applies.

### Notes:

Over the course of 8 months, Sandra receives more emails from Craig of the same nature which she finds offensive. She has spoken to her Supervisor who has spoken to Craig regarding this, but the emails continue.

Does this meet the definition of workplace harassment?

Yes. Craig has been asked to stop and yet the behaviour continues. At this point Progressive Discipline would apply in accordance with AP-HR-30 Correcting Employee Behaviour and Progressive Discipline.

If Sandra believes her Supervisor did not adequately address the issue, she can report the issue to her Supervisor's Supervisor.

## 1.19 Scenario 2

**Scenario #2**

Meet Janet and Kayla, school support staff. Janet feels that Kayla is not pulling her weight in their shared workspace.

Kayla isn't doing her share of the work

Really, Janet is the problem, not me.

Does this meet the definition of workplace harassment?

If the allegations are true, and Kayla is not meeting her job expectations, this is not workplace harassment.

The graphic features a dark background with white text. At the top, the title 'Scenario #2' is in a large serif font. Below it, a paragraph introduces Janet and Kayla. Two circular portraits of women are shown: Janet on the left and Kayla on the right. Next to Janet's portrait is a text box saying 'Kayla isn't doing her share of the work'. Next to Kayla's portrait is a text box saying 'Really, Janet is the problem, not me.' Below these portraits, a man in a suit and yellow tie (Glenn) stands with his arms outstretched. To his left is the question 'Does this meet the definition of workplace harassment?' and to his right is the answer 'If the allegations are true, and Kayla is not meeting her job expectations, this is not workplace harassment.'

### Notes:

Janet and Kayla are school support staff.

Janet feels that Kayla is not pulling her weight in their shared workspace.

Janet brings the issue up with their Supervisor Glenn.

Glenn conducts an investigation and agrees Kayla is not meeting her job expectations.

Glenn schedules a meeting with Kayla to discuss the concerns.

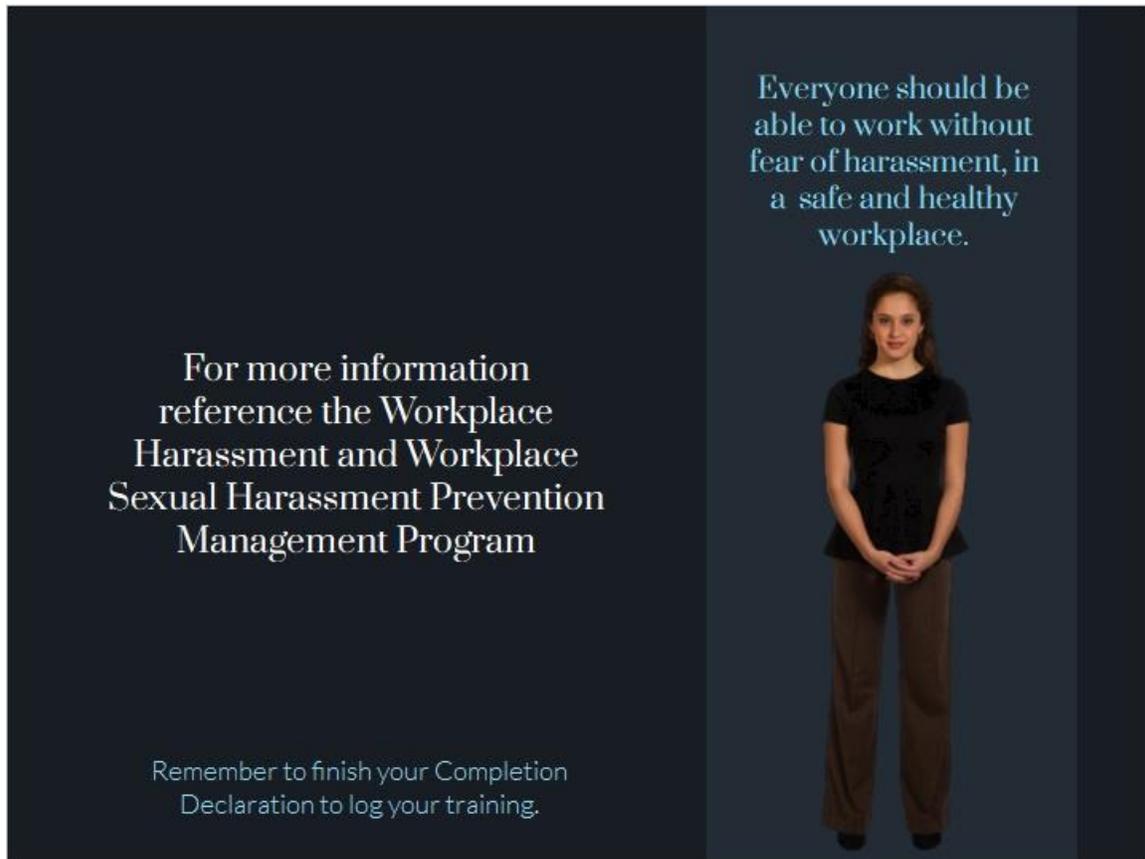
After they discuss the concerns, Kayla tells Glenn that Janet is the real problem, not her. She is always late for work and is one to talk about work ethic.

Kayla believes Janet and Glenn are harassing her.

Does this meet the definition of workplace harassment? If the allegations against Kayla are true and she is not meeting her job expectations, this is not workplace harassment. Similarly, if Janet is late for work, this is a performance related issue. Kayla bringing this up to Glenn does not meet the definition of workplace harassment.

A Supervisor discussing performance issues with a worker is not workplace harassment.

## 1.20 Conclusion



Everyone should be able to work without fear of harassment, in a safe and healthy workplace.

For more information reference the Workplace Harassment and Workplace Sexual Harassment Prevention Management Program

Remember to finish your Completion Declaration to log your training.

A woman with long brown hair, wearing a black short-sleeved top and brown trousers, stands with her hands clasped in front of her.

### Notes:

The Board is committed to providing a Workplace Harassment and Workplace Sexual Harassment free working environment. Workplace Harassment and Workplace Sexual Harassment is unacceptable and the Board will take all reasonable steps to prevent it and, where it has occurred, to respond decisively and effectively. Workplace Harassment and Workplace Sexual Harassment could also fall under "Protected Grounds" of the Ontario Human Rights Code. Additional reference can be made to Board Policy AD-48 Human Rights.

For more information please reference the Board's Workplace Harassment and Workplace Sexual Harassment Prevention Management Program.