

## Human Rights and Equity - Definitions

- 1.1 Accommodation - making an adaptation or adjustment, providing support, or making exceptions to remove Barriers on protected grounds to ensure fair and equitable access, treatment, and inclusion. This enables a person to participate equally and perform to the best of their abilities when learning, working, or accessing services. The period of accommodation may be temporary or permanent, depending on particular circumstances. The duty to accommodate is a legal obligation that requires the SCDSB to provide reasonable accommodations for substantiated needs on a case by case basis, short of the point of undue hardship.
- 1.2 Advocate - another person chosen by a person with a human rights concern or complaint to provide support, advocacy, or advice.
- 1.3 Anti-oppression - an active and consistent process of change to eliminate individual, institutional, and systemic oppression as well as the injustice oppression causes.
- 1.4 Anti-racism - an active and consistent process of change to eliminate individual, institutional, and systemic oppression as well as the injustice oppression causes.
- 1.5 Barrier - anything that prevents a person from fully taking part in all aspects of the SCDSB, including physical, architectural, information or communications, attitudinal, economic, and technological barriers, as well as policies or practices.
- 1.6 Code-based Harassment - engaging in a course of conduct that is known or ought reasonably to be known to be unwelcome based on one or more of the prohibited grounds listed in the Ontario Human Rights Code (OHRC) <https://www.ontario.ca/laws/statutue/90h19>, that a person knows or ought to know would be unwelcome, offensive, embarrassing or hurtful. Code-based harassment may include, but is not limited to:
  - 1.6.1 slurs or derogatory remarks;
  - 1.6.2 threats;
  - 1.6.3 inappropriate jokes, innuendos, name-calling, teasing, embarrassing practical jokes;
  - 1.6.4 insulting gestures;
  - 1.6.5 displaying pin-ups, pornography, racist, homophobic or other offensive materials;
  - 1.6.6 use of electronic communications such as the internet and e-mail to harass;
  - 1.6.7 actions that invade privacy;
  - 1.6.8 spreading rumours that damage one's reputation;
  - 1.6.9 refusing to work with another;
  - 1.6.10 condescending or patronizing behaviour;
  - 1.6.11 abuse of authority which undermines performance or threatens careers; and,
  - 1.6.12 unwelcome touching, physical assault or sexual assault.

There is no legal obligation for an individual to tell a harasser to stop. The fact that a person does not explicitly object to harassing behaviour, or appears to be going along with it does not mean that the behaviour is not harassing or that it has been consented to.

- 1.7 Competing Rights - situations where it is claimed that the enjoyment of an individual or group's human rights and freedoms, as protected by law, would interfere with another's human rights and freedoms.
- 1.8 Condonation - the practice, particularly on the part of a person in a position of authority, of overlooking, downplaying, accepting and/or failing to respond to discriminatory behaviour.
- 1.9 Creed – a religious or non-religious belief system, including Indigenous spirituality and cultural practices, which influences a person's identity, world view and way of life. A creed:
  - 1.9.1 is sincerely, freely, and deeply held;
  - 1.9.2 is integrally linked to a person's identity, self-definition and fulfilment;
  - 1.9.3 has a particular and comprehensive, overarching system of belief that governs one's conduct and practices;
  - 1.9.4 addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a Creator and/or a higher or difference order of existence; and,
  - 1.9.5 has a "nexus" or connection to an organization that professes a shared system of belief.
- 1.10 Dignity - individual self-respect, self-worth, and inherent worth as a human being. It is concerned with physical and psychological integrity, and empowerment. It is harmed when people are marginalized, stigmatized, ignored, or devalued.
- 1.11 Directing Minds - employees with supervisory authority who function, or are seen to function, as representatives of an organization. Personnel who are not identified as supervisors may be directing minds if they have supervisory authority or have significant responsibility for the guidance of employees.
- 1.12 Discrimination – is unfair or prejudicial treatment of individuals or groups on the basis of grounds set out in the OHRC. Discrimination includes treatment that results in disadvantage, violates dignity, or perpetuates prejudice against a person or group in a SCDSB environment in relation to one or more protected grounds. Discrimination can be direct or indirect, individual, or systemic (see definition below), and need not be intended. It also includes hate activity in SCDSB environments.

Discrimination does not include the existence of measures designed to relieve disadvantage or systemic discrimination, or to assist persons or groups who experience disadvantage to achieve or attempt to achieve equal opportunity.

- 1.13 Diversity – is the presence of a wide range of human qualities and attributes within a group, organization or society. The dimensions of diversity include, but are not limited to, ancestry, culture, ethnicity, gender, gender identity, race, language, physical and intellectual ability, religion, sex, sexual orientation and socio-economic status.
- 1.14 Duty to Accommodate - the legal obligation to adapt, adjust, provide support, or make exceptions, to remove barriers or to avoid discrimination based on a protected ground to ensure fair and equitable access, treatment, and inclusion, and for individuals to be able to participate equally and perform to the best of their abilities in the learning environment, workplace, or other SCDSB environment.

The duty to accommodate may require, where reasonable, adjusting or making exceptions to policies, procedures, programs, guidelines, practices, physical settings, requirements, or criteria in keeping with the principle of the primacy of the OHRC.

If a person in a position of authority has information or has made observations that suggest there may be a need for accommodation, that person is under a duty to make reasonable inquiries into whether an accommodation may be required.

The duty to accommodate will be triggered where an individual substantiates a need based on the grounds under the OHRC. Substantiated needs require reasonable accommodation short of the point of undue hardship. An individual is not entitled to their preferred, or perfect, accommodation, rather reasonable accommodations will be determined on a case by case basis in response to the individual needs of the person.

The procedural duty to accommodate requires that the accommodation process be transparent, collaborative, and respectful. All parties have a responsibility for facilitating reasonable accommodations. Requests for accommodation cannot be ignored.

- 1.15 Employee - any person who is an “employee” (as defined in the OHRC). It also includes any person who is a “worker” under the *Occupational Health and Safety Act* (OHSA) including, but not limited to, full-time, part-time, regular, temporary, and probationary employees, co-op students, and contract employees.
- 1.16 Environmental Scan – identification and monitoring of factors both inside and outside the organization that may impact the long-term viability of the organization. In an educational context, an Environmental Scan can be viewed as a combination of school effectiveness framework and an equity visit/audit.
- 1.17 Equal Treatment - treatment that brings about an equality of results and that may, in some instances, require different treatment. For example, to give all employees equal treatment in entering a building, it may be necessary to provide a ramp for an employee who requires the use of a wheelchair.

- 1.18 Equity - a condition or state of fair, inclusive and respectful treatment of all people. Equity does not mean treating people the same without regard for individual differences.
- 1.19 Gender Identity - each person's internal and individual experiences of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender may be the same as, or different from, their birth-assigned sex.
- 1.20 Gender Expression - how a person publicly presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common ways of expressing gender.
- 1.21 Harassment - "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome" (section 10(1) of the OHRC). The OHSA defines workplace harassment in section 1 (1) 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."
- The SCDSB interprets this to include any behaviour which is known or ought reasonably to be known to the perpetrator to be offensive, embarrassing or humiliating to other individuals but does not include legitimate performance management or discipline. Such conduct may include written, verbal and/or physical conduct and may relate to (but is not limited to) any of the grounds of discrimination prohibited in employment by the SCDSB Administrative Procedures Memorandum A4075 and the OHRC. These grounds include the following: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance and other grounds as amended in the legislation or identified in case law or by policy of the Human Rights Commission from time to time.
- 1.22 Hate Crime - a criminal offence that is committed against a person or property, and which is motivated in whole or in part by hatred or bias based on race, national or ethnic origin, language, colour, creed, religion, sex, age, mental or physical disability, sexual orientation, gender identity, or gender expression. This includes, but is not limited to, hate-motivated violence, incitement to hate-motivated violence, and/or the display of symbols or other representations identified with groups promoting hate and violence. It also includes such crimes committed against a person who is associated, or perceived to be associated, with individuals or groups identified with one of the OHRC-protected grounds.
- 1.23 HREO - the Human Rights and Equity Office of the SCDSB. The Human Rights and Equity Manager (HREM) is employed in, and carries out the mandate of the HREO as defined in Policy 3135.

- 1.24 Incident - an event or occurrence in which discriminatory and/or harassing behaviour is exhibited in the workplace. An incident includes situations where an individual knows or ought to have reasonably known that the behaviour is contrary to this policy. An incident may not have to be raised to management directly by a complainant (e.g. a manager is aware of sexualized banter between workers through observation or this information is raised to the manager by a third party, but no one has come forward to complain).
- 1.25 Incivility - conduct that is not harassment. It is subtle or overt, deviant behaviour where intent can be ambiguous. It is characterized by rude, discourteous interactions that display a lack of respect or regard for others.
- 1.26 Inclusion – the sense of belonging and dignity that derives from having an environment where everyone has a voice, has equal access to opportunities, to contribute and to resources and where everyone feels valued and respected, irrespective of their differences.
- 1.27 Instance - any incident, event, ongoing situation, circumstance, environment, practice, policy, procedure, rule, directive, etc. that gives rise to a breach of this policy. The term “potential instance” refers to knowledge, including based on rumour, report, or reasonable suspicion, that warrants investigation to ascertain whether a violation of this policy has occurred.
- 1.28 Intersectional Discrimination - a form of discrimination that occurs based on two or more OHRC grounds that produce a unique and distinct form and experience of discrimination that cannot be reduced to any single OHRC ground. The concept of intersectional discrimination recognizes that people may have multiple overlapping identities, and that marginalization, exclusion and discrimination may be further exacerbated because of how these identities interact or “intersect”.
- 1.29 Learning Environment - any land, premises, location, event at or upon, on in which a SCDSB student or SCDSB member (as defined below) learns or engages in activities connected to the Learning Environment (e.g. parent engagement/parent council activities). This includes virtual/online environments. Conduct that has consequences for the learning environment, regardless of where it occurs, may be considered to have occurred in the learning environment.
- 1.30 Manager - a supervisor or a directing mind, as defined in this policy.
- 1.31 Mediation - a confidential dispute resolution process, during which a neutral third party assists two or more parties to resolve conflict. It is a voluntary process where parties in dispute consent to meet with a trained mediator to determine whether the dispute can be resolved in a mutually satisfactory manner. Mediation discussions between parties are treated as private and confidential to the full extent permitted by law.
- 1.32 OHRC – Ontario Human Rights Code.

- 1.33 Parent - a parent, guardian or any other caregiver legally recognized as acting in a place of the parent.
- 1.34 Person in a Position of Authority – the director, superintendent, principal, vice-principal, manager, or a person with authority over students (e.g. teacher, educational assistants, school-based safety monitors, child and youth workers, designated early childhood educators, lunchtime supervisors, bus drivers, office support staff).
- 1.35 Poisoned Work Environment - a reasonable work environment is changed to a poisoned one when conduct and/or comments related to the prohibited grounds of discrimination interfere with an employee's work performance and create an intimidating, hostile or offensive work environment.
- 1.36 Prohibited (Protected) Grounds - the grounds upon which discrimination is prohibited under the OHRC and this policy. The grounds are:
  - 1.36.1 age;
  - 1.36.2 ancestry;
  - 1.36.3 citizenship;
  - 1.36.4 colour;
  - 1.36.5 creed;
  - 1.36.6 disability;
  - 1.36.7 ethnic origin;
  - 1.36.8 family status (includes child, adoptive, elder relationships);
  - 1.36.9 gender expression;
  - 1.36.10 gender identity;
  - 1.36.11 marital status (including single, separated, widowed, common law and covers same and opposite sex relationships);
  - 1.36.12 place of origin;
  - 1.36.13 race;
  - 1.36.14 sex (includes pregnancy and breastfeeding);
  - 1.36.15 sexual orientation;
  - 1.36.16 socio-economic status\*;
  - 1.36.17 record of offences (in employment only); and,
  - 1.36.18 association with a person identified by a ground listed above.

\*Note: Socio-economic status is a protected ground under this policy, but not under the OHRC.

Treatment that occurs because of perceived membership in a protected group is also protected.

- 1.37 RDH Form - the Reporting Discrimination and Harassment online reporting form which enables detailed incident reporting on harassment or discrimination involving members of the SCDSB community. This includes human rights-based concerns such as sexism, racism, transphobia, islamophobia, xenophobia, antisemitism, and ableism.

- 1.38 Reasonable Person Test - an objective legal standard used to measure whether a comment or conduct is discrimination or harassment. It considers what a reasonable and prudent person's reaction or conduct would have been under similar circumstances and in a similar environment. It considers the objective perspective and not stereotyped notions of acceptable behaviour. This standard is used to assess human rights complaints under this policy.
- 1.39 Reprisal – intentional adverse action or threat of adverse action against an individual that is in retaliation for:
- 1.39.1 in good faith, raising concerns or claiming or enforcing a right under this policy or associated procedures or supporting or assisting someone to do so;
  - 1.39.2 participating in a process to address a matter under this policy or associated procedures;
  - 1.39.3 on the basis of a belief that the individual has engaged in either item above.
- Adverse action in the above definition could include:
- 1.39.4 disciplining, suspending, dismissing, or expelling;
  - 1.39.5 changing an employee's position, shift, work location, work assignments or the nature of their work;
  - 1.39.6 moving a student to a different class;
  - 1.39.7 unfair grading;
  - 1.39.8 reducing or changing an employee's hours;
  - 1.39.9 denying a promotion; or,
  - 1.39.10 harassing or discriminating.
- 1.40 Respondent - a person who is alleged to be responsible for discrimination or harassment. There can be more than one respondent in a human rights complaint.
- 1.41 SCDSB - Simcoe County District School Board.
- 1.42 SCDSB Environment - the Workplace (as defined below), and includes:
- 1.42.1 SCDSB owned or operated places, SCDSB premises, offices, and facilities (including eating, lounge/changing areas and vehicles used for SCDSB purposes or on SCDSB property);
  - 1.42.2 schools and school-related activities;
  - 1.42.3 SCDSB-related functions, activities or events, including off duty events where there is a sufficient connection or impact on the workplace or reputation of the SCDSB;
  - 1.42.4 online environments (including video conferences or meetings, virtual school trips, ceremonies, assemblies, learning experiences, clubs, affinity spaces);
  - 1.42.5 activities, including electronic messages and postings on electronic and social media, which have significant employment related connection for the SCDSB Environment; and,



- 1.42.6 all applicable social areas (e.g. employment, goods, services, facilities, and contracts) protected by the OHRC.
- 1.43 SCDSB Member/Member of the SCDSB Community - students, parents/guardians, employees, job applicants, trustees, committee members, school/parent council members, permit holders (including organizations who use SCDSB facilities), vendors, service providers, contractors, volunteers, visitors, customers of the SCDSB, bargaining agents and associations, and all other persons who are invited to, work in, or are permitted to attend or participate in SCDSB environments.
- 1.44 Sexual Harassment - defined in the OHRC and was amended by Bill 132, which now includes workplace sexual harassment in the definition of workplace harassment. Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression.

Making a sexual solicitation or advance where the person making the solicitation or advance is able 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 is deemed workplace sexual harassment.

Non-Code Workplace Harassment is harassment within the meaning of the OHSA, that is not related to a prohibited ground identified in the OHRC. Workplace harassment, defined in the OHSA means 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. It also includes workplace sexual harassment.

Workplace harassment often involves a course or grouping of behaviours. However, a single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute workplace harassment.

The definition of workplace harassment does not include, and this policy is not intended to interfere with, constructive feedback regarding performance, reasonable disability or attendance management or other operational directives provided to employees by their supervisors, managers or senior management.

Examples of workplace harassment include a pattern of:

- 1.44.1 frequent angry shouting/yelling or blow-ups;
- 1.44.2 regular use of profanity and abusive language;
- 1.44.3 verbal or e-mail threats (not including threats to exercise physical force which are covered by the workplace violence policy);
- 1.44.4 intimidating behaviours – slamming doors, throwing objects;
- 1.44.5 targeting individual(s) in humiliating practical jokes excluding, shunning, impeding work performance;
- 1.44.6 spreading gossip, rumours, negative blogging, cyber-bullying;
- 1.44.7 retaliation, bullying, sabotaging;
- 1.44.8 unsubstantiated criticism, unreasonable demands;
- 1.44.9 frequent insults and/or name calling;



- 1.44.10 public humiliation;
- 1.44.11 communication that is demeaning, insulting, humiliating, mocking;
- 1.44.12 intent to harm; or,
- 1.44.13 a single, serious incident that has a lasting, harmful impact.

Workplace harassment does not include:

- 1.44.14 legitimate performance/probation management;
- 1.44.15 appropriate exercise and delegation of managerial authority;
- 1.44.16 operational directives/direction of workers or the workplace;
- 1.44.17 other reasonable action(s) taken by management;
- 1.44.18 a disagreement or misunderstanding;
- 1.44.19 conflict between co-workers;
- 1.44.20 work related change of location, co-workers, job assignment;
- 1.44.21 appropriate discipline;
- 1.44.22 less than optimal management;
- 1.44.23 a single comment or action unless it is serious and has a lasting harmful effect;
- 1.44.24 rudeness unless it is extreme and repetitive;
- 1.44.25 incivility;
- 1.44.26 conditions in the workplace that generate stress (technological change, impending layoff, a new boss, friction with other employees, workload).

Sexual harassment is also a form of discrimination based on the prohibited ground of sex under the OHRC.

Examples of harassment related to the ground of sex, sexual orientation, gender expression and/or gender identity include but are not limited to:

- 1.44.27 sexually suggestive or obscene remarks or gestures;
- 1.44.28 use of homophobic or transphobic epithets, slurs or jokes;
- 1.44.29 insults, comments that ridicule, humiliate or demean people because of their sex, sexual orientation, gender identity or expression;
- 1.44.30 behaviour that polices and/or reinforces traditional heterosexual gender norms;
- 1.44.31 intrusive comments, questions or insults about a person's body, physical characteristics, gender-related medical procedures, clothing, mannerisms or other forms of gender expression;
- 1.44.32 negative stereotypical comments about an individual's physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms;
- 1.44.33 circulation or posting of homophobic, transphobic, sexist, derogatory or offensive signs, caricatures, graffiti, pictures, jokes or cartoons, display of pin-up calendars, objectifying images or other materials;
- 1.44.34 leering (suggestive staring) at a person's body;
- 1.44.35 unwelcome physical contact;

- 1.44.36 having to work in a sexualized environment (bragging about sexual prowess, or discussions about sexual activities);
  - 1.44.37 exercising power over another person, making them feel unwelcome or putting them 'in their place' – regardless of whether the behaviour is motivated by sexual interest;
  - 1.44.38 spreading rumours about, "outing", or threatening to "out" someone;
  - 1.44.39 refusing to refer to a person by their self-identified name and personal proper pronoun; and,
  - 1.44.40 other threats, unwelcome touching, violence and physical assault.
- 1.45 Sexual orientation - encompasses the range of human sexuality including intimate, emotional and romantic attachments and relationships. Categories of sexual orientation typically have included attraction to members of one's own sex/gender, attraction to members of another sex/gender, and attraction to people of more than one sex/gender.
- 1.46 Racial harassment - harassment on the ground of race. It may also be associated with the grounds of colour, ancestry, where a person was born, a person's religious belief, ethnic background, citizenship or even a person's language. Racial harassment/discrimination can include but is not limited to:
- 1.46.1 racial slurs or jokes;
  - 1.46.2 ridicule, insults or different treatment because of your racial identity;
  - 1.46.3 posting/e-mailing cartoons or pictures that degrade persons of a particular racial group;
  - 1.46.4 name-calling because of a person's race, colour, citizenship, place of origin, ancestry, ethnicity or creed.
- 1.47 Supervisor - a person who has charge of a workplace or authority over a worker, and may include supervisor, manager, vice-principal, principal, superintendent, or director.
- 1.48 System Leaders - formal leaders including senior staff, supervisors, managers, principals and vice-principals.
- 1.49 Systemic Discrimination - attitudes, patterns of behaviour, policies or practices that are part of the social or administrative structures of an organization or sector, and that create or perpetuate a position of relative disadvantage for people, in part or in whole, because of a protected ground. This is when the attitudes, behaviour, policies or practices appear neutral on the surface but nevertheless have an "adverse effect" or exclusionary impact on people because of a protected ground.
- 1.50 Undue Hardship - the point at which the legal duty to accommodate ends based on an objective assessment of only three factors: (i) costs, (ii) outside sources of funding (if any), and (iii) health and safety considerations of the proposed accommodation.

- 1.51 Vexatious - comment or conduct that is troublesome, false or unnecessary and that a SCDSB student, employee, or other user experiences as offensive, embarrassing, humiliating, distressing, or demeaning. It can denote an action that is brought without sufficient grounds or designed to cause offence, annoyance or harassment.
- 1.52 Workplace - defined by the OHSA as “any land, premises, location (in-person or online) or thing at, upon, in or near which a worker works.”

The Workplace includes any place where employees perform duties or functions on behalf of the SCDSB. Schools and school-related activities, such as extracurricular activities and excursions, comprise the workplace, as do SCDSB offices, vehicles, facilities, and lands. Conference workshops, training sessions, staff functions (e.g. staff meetings, staff parties/events and retirement celebrations) whether in person or virtual and job competitions fall within the ambit of this policy.

Regardless of where it occurs, conduct that has work-related consequences may be considered to have occurred in the workplace. Phone calls, electronic messages, and postings on electronic and social media may form part of the workplace.