Niagara Catholic District School Board

SEXUAL MISCONDUCT

ADMINISTRATIVE OPERATIONAL PROCEDURES

200 – Human Resources **No 201.13**

Adopted Date: June 26, 2006 Latest Reviewed/Revised Date: September 8, 2026

In keeping with the Mission, Vision, and Values of the Niagara Catholic District School Board, these Administrative Operational Procedures outline the Board's commitment to addressing and responding to reports and/or complaints of sexual misconduct with fairness, sensitivity, and in accordance with applicable legislation and Board policy.

PREAMBLE

The Niagara Catholic District School Board (the Board) is committed to fostering a safe, respectful, and inclusive environment where all students, employees, volunteers, visitors, contractors and other individuals with a legal right to be present at Board sites can learn and work in an environment free from sexual misconduct. This policy is established in accordance with the Education Act, Criminal Code of Canada Act, and the Occupational Health & Safety Act (OHSA), specifically the provisions related to workplace harassment and violence to foster a safe and harassment-free environment for all.

The Board affirms that any individual who in good faith reports suspicions of sexual misconduct will be supported throughout the process and the Board does not tolerate any form of reprisal.

DEFINITIONS

Definitions are subject to changes from time to time as the appropriate legislation is reviewed and amended.

1. Sexual Abuse

Sexual abuse is a form of professional misconduct.

Sexual abuse of a student by a Board employee means:

- sexual intercourse or other forms of physical sexual relations between the Board employee and the student,
- touching, of a sexual nature, of the student by the Board employee, or
- behaviour, remarks or conduct of a sexual nature by the Board employee, in person or electronically (such as texts and social media) towards the student.
- "sexual nature" does not include
  - (a) touching or behaviour that is necessary for the purpose of diapering, toileting, washing or dressing a student as part of a Board employee's professional responsibilities, or
  - (b) remarks that are pedagogically appropriate

2. Sexual Misconduct

Sexual misconduct is inappropriate behaviour, remarks or conduct of a sexual nature, whether in person or electronically, and whether direct or indirect where the individual knows or should know that the behaviour may cause distress, affect the personal integrity, or create a negative environment for students, employees, volunteers or other covered persons.

3. Sexual Harassment

a. Engaging in a course of vexatious comments 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. ii. 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;

The types of conduct which can be found to constitute sexual harassment could include, but are not limited to:

- the use of sexually profane language;
- rude or suggestive remarks of a sexual nature;
- sexually-based jokes or cartoons, whether communicated in person or electronically;
- photographs of sexually provocative poses;
- unwanted physical contact, including patting, touching or grabbing;
- wolf-whistles or cat-calls which cause embarrassment;
- degrading, sexually-based nick-names;
- conduct or remarks which denigrate an individual's sexuality;
- indicating that a person has limited potential because of their gender;
- intimidating behaviour such as blocking a person's way or pinning them to the wall;
- stalking;
- insistent requests for dates.

Sexual harassment also includes any actions taken as a reprisal against a person who has declined a sexual advance or invitation.

Sexual harassment does not include:

- A hug between friends or a mutual flirtation.
- Conduct which both parties find acceptable such as an occasional compliment,
- An occasional or appropriate comment which a reasonable person, in their circumstances, would not take to have an unwelcome sexual connotation.
- Relationships between consenting adults which are voluntary. However, when such a relationship ends, continued unwanted attention may constitute sexual harassment

Sexual harassment may be defined as a form of sexual misconduct as follows:

Inappropriate behaviour or remarks of a sexual nature which may constitute professional misconduct include, but are not limited to, conduct that would amount to sexual harassment or sexual discrimination under the Ontario Human Rights Code. These need not be overtly sexual but may nonetheless demean or cause personal embarrassment to a student, employee of the Board, volunteers or other persons covered by these Administrative Operating Procedures.

Sexual harassment can also be unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature.

Board employees of the Niagara Catholic District School Board must avoid even a single event that may constitute sexual harassment, including but not limited to:

- objectionable conduct or comments incompatible with the role of an employee regardless of whether the affected student(s), employees of the Board, volunteers or other persons covered by this policy appear to be offended by the conduct or comments
- reprisals or threatened reprisals for rejecting sexual advances.

4. Sexual Violence

Sexual violence means any sexual act or act targeting any person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation, as defined by the Criminal Code of Canada.

5. Sexual Relationships with Students

Regardless of the age of a student and whether there are any criminal law considerations, it is unacceptable for Board employees of the Niagara Catholic District School Board to engage in or attempt to establish a sexual relationship with a student.
Sexual relationships include, but are not limited to, any sexual relationship with:

- a student, regardless of the student's age
- a former student under the age of 18
- a former student who suffers from a disability affecting their ability to consent to a relationship.

Responsibility for ensuring that an employee-student relationship is professional and appropriate rests with the Board employee and not with the student. This remains the case even when it is the student who attempts to initiate an inappropriate relationship. Any conduct directed to establishing such a relationship will constitute professional misconduct.

A student may be a student who is in the school or Board where the employee is employed, or in relation to whom a Board Employee is otherwise considered to hold a position of trust and responsibility.

Board Employees of the Niagara Catholic District School Board must not engage in activity directed to establishing a sexual relationship. This includes, but is not limited to:

- any form of sexual touching of students
- sending intimate correspondence to students
- making telephone calls of a personal nature to students
- engaging in sexualized dialogue through any means with students
- making suggestive comments to students
- dating students
- giving personal gifts to students
- grooming of students
- inviting individual students to their homes
- meeting students in private and isolated situations
- exchanging personal notes, comments, or communication
- texting students
- becoming personally involved in students' affairs
- sharing personal information about themselves with students
- making physical contact of a sexual nature with a student

6. Professional Misconduct for Staff

A sexual relationship with a student or former student, or conduct directed to establishing such a relationship, may be regarded as professional misconduct by the Board. This conduct may also amount to sexual offences, which are addressed in the Criminal Code of Canada and the Ontario College of Teachers Act, and any applicable licensing or professional regulatory body, including prescribed sexual acts, sexual interference, sexual exploitation, invitation to touching, and any definitions covered under this AOP.

7. Reprisal

Includes any harassment, intimidation, threats, or complaints against a person for making a report in good faith to the Board about suspected sexual misconduct by a Board Employee.

INVESTIGATION PROCEDURES

Notification of the Report/Complaint

Where a Board Employee is suspected of sexual misconduct, the individual making a report to Family and Children's Services Niagara [FACS] and/or the Police, as may be required, shall notify the Principal/Supervisor and the appropriate Superintendent of Education who supervises the alleged perpetrator of the report.

Principal

Where the Principal is suspected of such conduct, the notification of the report shall go to the appropriate Family of Schools' Superintendent and to the Chief Human Resource and Communications Officer and/or the Chief Executive Officer.

Senior Administrative Council

When a complaint is filed against the conduct of a Superintendent of Education, Chief Finance Officer, Chief Human Resource and Communications Officer, the notification of the report shall go to the Chief Executive Officer who will investigate the complaint.

Chief Executive Officer

When a complaint is filed against the conduct of the Chief Executive Officer, the notification of the report shall go to the Chair of the Board of Trustees, who shall notify the appropriate Board Legal Counsel to determine the next course of action.

Academic (OCT Certified) Staff

For Academic Staff: The *Student Protection Act* also amended the Teaching Profession Act to add the following under reporting sexual abuse: "Despite any regulation made under subsection (1) a member who makes an adverse report about another member respecting suspected sexual abuse of a student by that other member need not provide him or her with a copy of the report or with any information about the report."

Investigation

All reports of sexual misconduct will be thoroughly investigated by the supervising administrator with a report to their immediate supervisor. The receiver of the complaint will treat the complaint and those associated with sensitivity and confidentiality, as permitted and/or required by law, in the investigation of the complaint.

The investigation shall be conducted in a fair and judicious manner. The alleged perpetrator will be offered an opportunity to respond, their right to consult union representative as applicable, and to provide additional information. The investigator will undertake to investigate the complaint in an expeditious manner.

Investigations of Student Allegations of Sexual Misconduct

In accordance with the *Child, Youth and Family Services Act,* any person, including Board employees, who have reasonable grounds to suspect that a student is, or may be in need of protection, must first immediately report the suspicion and the information on which it is based directly to a children's aid society.

Where allegations of sexual misconduct involving students, that have been reported, will follow the procedures set out in the Family and Children's Services (FACS) Niagara and Niagara Regional Police Protocols must be followed. Any board employee who has made a report with FACS and/or the Police should also notify the appropriate supervisory staff.

The subject matter of the complaint should not be discussed with the alleged perpetrator until specific instructions are received from the investigating Police or FACS personnel conducting the investigation.

The Chief Human Resource and Communications Officer, in consultation with the appropriate Superintendent is obliged to address the interim status of the Board Employee against whom allegations of sexual abuse have been made, pending a preliminary investigation of the allegation.

When considering the interim status of an individual accused of misconduct, safety and security of the alleged victim(s) is paramount. However, the interim status must also reflect a consistency of approach following the principles of procedural fairness to all affected.

Where sexual misconduct has been alleged against a Board Employee, they should be removed from the classroom or from situations involving unsupervised access to students, as appropriate, pending determination as to whether abuse or sexual misconduct has occurred.

Depending on the circumstances, removal may involve reassignment to other duties, suspension, investigative leave, or in some circumstances, commencement of termination proceedings.

An employee or volunteer's assignment, re-assignment or employment status should be revisited upon completion of any Police or FACS investigation, after any criminal charges are laid, after any criminal case is completed and upon completion of any internal investigation.

Any internal investigation should be deferred, pending conclusion of any ongoing or contemplated Police or FACS investigation.

When a School/Board internal investigation is permitted, the principal of the school and/or the Immediate Supervisor must conduct an investigation of the matter, in accordance with all applicable Board policies and associated administrative procedures.

While the Family and Children Services/Police determination may be an "unable to verify report", the Board may still, in its discretion, determine that there is sufficient information from its own investigation for discipline or discharge.

Investigations of Staff Allegations of Sexual Misconduct

The Chief Human Resource and Communications Officer, will designate an investigator to ensure that all complaints or reports of sexual misconduct between staff are investigated in accordance with the AOPs and appropriate measures are taken, including interim measures during investigation as needed for staff safety, in accordance with applicable Board policies and procedures, including but not limited to:

- Employee Workplace Harassment Policy AOP
- Employee Workplace Violence Policy AOP
- Employee Code of Conduct and Ethics Policy AOP

Any allegation that meets the threshold of criminality, the Board will follow the necessary reporting to the Police and/or FACs.

Any allegation that is also being investigated by the Police and/or FACS, the Board will comply with the Police and/or FACS with the investigation.

Depending on the circumstances, removal may involve reassignment to other duties, suspension, investigative leave, or in some circumstances, commencement of termination proceedings.

The matter once investigated and found to have merit, will require disciplinary action up to and including termination of employment.

Confidentiality/Communications

Confidentiality will be respected and maintained at all times as required by relevant legislation.

Where applicable, and if permitted by law, Police or FACS as well the investigators of the Ontario College of Teachers and any applicable licensing or professional regulatory body, should be consulted by the Board as to the nature and timing of disclosure of pertinent information to the alleged perpetrator.

The Board will provide timely communication, when and where appropriate, to the school community and Trustees in response to sexual misconduct incidents at the Board. Any communication related to investigations will be in accordance with appropriate legislation, Board policies and procedures, protecting confidential and personal information of all parties involved.

Board Responsibilities

For Academic Staff, The *Student Protection Act* stipulates that, employers must report to the Ontario College of Teachers, and any applicable licensing or professional regulatory body, at the time, if the member is charged with or convicted of a sexual offence.

The Chief Human Resource and Communications Officer, under the discretion of the Chief Executive Officer will ensure that:

- improper conduct is the subject of appropriate disciplinary action
- appropriate records of improper conduct are kept
- professional bodies and organizations are properly notified of such conduct
- all allegations of sexual misconduct are properly investigated
- the Board will comply with the most up to date regulatory requirements as outlined by the Ontario College of Teachers and Education Act.

Appendix A Sexual Misconduct Complaint Form

References

- ***Child and Family Services Act 2017***
- ***Criminal Code of Canada***
- ***Education Act***
- ***Occupational Health & Safety Act***
- ***Ontario Human Rights Code***
- ***Ontario College of Teachers Act***
- ***Ontario College of Teachers***
  - ***Professional Misconduct of a Sexual Nature, September 22,2019***
  - ***The Ethical Standards for the Teaching Profession***
  - ***The Standards of Practice for the Teaching Profession***
- ***Ontario Regulations***
  - ***Ontario Regulation 298 - Operation of Schools - General***
  - ***Ontario Regulation 437 / 97 - Professional Misconduct***
  - ***Ontario Regulation 521 / 01 - Collection of Personal Information***
- ***Robins Report***
- ***Safe Schools Act, 2000***
- ***Student Protection Act, 2002***
- ***Teacher Profession Act***

- ***Niagara Catholic District School Board Policies/Procedures***
  - ***Bullying Prevention & Intervention Policy (302.6.8)***
  - ***Employee Workplace Harassment Policy (201.7)***

- ***Family and Children's Services Niagara (FACS) Protocol***
- ***Police Protocol between the Niagara Regional Police Services and the Niagara Catholic District School Board***
- ***Privacy Policy (600.6)***
- ***Privacy Breach Protocol***

Adopted Date:	**June 26, 2006**
Revision History:	**June 17, 2014** **March 24, 2020** **September 17, 2025** **November 14, 2025** ***September 8, 2026 *(Administrative Update)***

APPENDIX A

NIAGARA CATHOLIC DISTRICT SCHOOL BOARD

SEXUAL MISCONDUCT COMPLAINT FORM

Private and Confidential
Complainants may seek assistance before completing this form.
Please use back of form for further comments

This information is being collected under the Authority of The Education Act, and will be used for the purposes of reporting Sexual Misconduct. Questions about this collection should be directed to the Chief Human Resource and Communications Officer Niagara Catholic District School Board, 427 Rice Road, Welland, ON L3C 7Cl Telephone (905) 735-0240

Name of Complainant

School/Department/Work Site

Status of Complainant

O Student O Employee O Other

Job Title: _____ Details of Other _____

Description of Alleged Sexual Misconduct

Name(s) of Person(s) Accused of Sexual Misconduct

Date(s) of lncident(s) or Time Frame

Location(s) of incident(s)

Has this complaint been reported previously? O Yes O No

If Yes, to whom? _____

What actions were taken? (Police and/or FACS)

Contact Name: _____ Phone Number of Contact _____

Resolution Requested

Complainant(s) Signature (s) Date

The information contained in this form is of a highly confidential nature and will be protected in accordance with all relevant legislation.

INSTRUCTIONS FOR HANDLING THIS FORM

Place this form in a sealed envelope marked "PRIVATE AND CONFIDENTIAL:' and forward to the Chief Human Resource and Communications Officer