

Procedure Title: **Respectful Workplaces**

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Introduction

We all share the responsibility to treat each other, and those who interact with the Atlantic Provinces Special Education Authority (APSEA), with civility and respect. Every member of the APSEA Community has the responsibility to uphold our values and to understand the impact of their behavior.

The purpose of this procedure is to:

- a) Foster a respectful environment that promotes civility and is free of offensive behavior.
- b) Lay out approaches and options for the resolution of concerns that will allow members of the APSEA Community to:
 - collaboratively resolve concerns, maintain effective relationships, and contribute to a positive, inclusive community culture.
 - address the impact of the behavior and respond to concerns in an effective, inclusive, and equitable way.
 - use restorative practices in response to concerns under this policy whenever possible.
- c) Guide individuals through the process of resolving their concerns under the Respectful Workplaces Policy.

See the Respectful Workplaces Guidelines for more information on restorative practices and how to resolve concerns.

Definitions

The following definitions are not found in the Respectful Workplaces Policy.

Fact-Finding - A range of activities that may be used to gain understanding of a concern or conflict. A review of the situation occurs to determine the most appropriate policy and process application. The range of activities may include but is not limited to; a fact-finding inquiry, a more detailed investigation, or a blend of resolution options, such as information gathering and mediation. APSEA determines the extent of the fact-finding process upon assessment of the concern.

Shuttle Diplomacy - Negotiations conducted by a mediator/impartial third party who travels between two or more parties that are reluctant to hold direct discussions.

Assessing Concern(s)

APSEA encourages the resolution of concerns at the earliest opportunity and as collaboratively as possible. There are a number of ways a concern may be addressed and resolved.

Any time a concern occurs, those involved take the time to consider how to proceed. This happens when a concern is raised or witnessed; by the individual(s) involved, by supervisors/managers in work settings or by senior leaders of APSEA.

Fact-finding may be part of assessing a concern to ensure that the information used to inform approaches is complete. In most cases this involves a brief fact-finding inquiry, and in some cases, it may be more complex. APSEA determines the scope and nature of fact-finding required supported by documented information supplied by the individual raising the concern.

Fact finding may include, but is not limited to:

- information gathering.
- investigative approaches appropriate to the situation and/or allegation.
- a blend of resolution options, such as information gathering and mediation.

Choosing an Approach

The choice in approach depends upon a number of factors which may include:

- the needs and wishes of those involved.
- the nature and impact of the behaviour, and desired outcome.
- individual capacity to manage the concern, etc.

Approaches

Independent Approach

When an employee who has a concern about a behaviour of another person chooses to raise it directly with that person. In this approach, the employee takes the lead in reaching resolution and, if need be, can reach out to resources for guidance and/or support to do so.

(See page 3 – Independent Approach Defined.)

Facilitated Approach

This approach is typically used by an employee requiring support from their Supervisor/ Manager, or when a Supervisor/Manager observes concerning behaviour within the work environment. In this approach, the Supervisor/Manager manages the concerning behaviour directly in the work setting, with all affected parties. (See page 4 – Facilitated Approach Defined).

Supported Approach

When there has been no success with the other approaches and/or someone wishes to resolve a concern and needs third party support to do so. (See page 5 – Supported Approach Defined).

Supports Available

- The Respectful Workplaces Guidelines are a tool to help assess concerns and determine ways to resolve them.
- Supervisors/Managers, Directors, Diversity Equity and Inclusion Consultant, Human Resources or the Employee and Family Assistance Program (EFAP) can provide additional support for employees.
- Other members of the APSEA community may raise concerns through any APSEA supervisor/manager or the Diversity, Equity, and Inclusion Consultant.

Independent Approach Defined

Led by an employee, the independent approach occurs when an employee who has a concern about the behaviour of another person chooses to raise it directly with that person.

When this approach is used

- When the employee feels it is safe and appropriate to do so.
- As soon as possible after the concern arises or concerning behaviour occurs.
- When the concerning behavior is not high risk. Use the Respectful Workplaces Guidelines to review the situation in terms of risk factors.

- When the employee has the skill, ability, and comfort level to have a conversation to resolve the concern themselves.

Approach:

Have a constructive conversation.

- Initiate the conversation with the desire for a positive outcome.
- Describe the concerning behaviour and its impact.
- Focus on the concerning behavior, not on the person
- Draft a script.
- Consider a private, mutually agreeable location and time.
- Actively listen to understand the other person's perspective.
- Agree upon resolution.

If the concern cannot be resolved or the concerning behaviour continues, other ways of addressing the concern can be explored through Supported Resolution with support of the individuals referenced in Resources above.

Consider these things before the conversation.

- The emotional readiness to engage in constructive conversation.
- Maintaining confidentiality.
- Making notes or journaling after the conversation.
- Other supports such as EFAP and union, as applicable.

Facilitated Approach Defined

Concerning behaviour in the working environment can often be handled immediately by a Supervisor/Manager or Director as part of day-to-day work setting management.

Managing concerning behaviour(s) in a class or work setting occurs when a Supervisor/Manager or Director observes concerning behaviour **or** an employee brings forward a concern about the behaviour of another person who is part of the working environment.

When this approach is used

- As soon as possible after the concern arises or concerning behaviour occurs.
- When the concerning behavior is harmful to the working environment and is not high risk. Use the Respectful Workplaces Guidelines to review the situation in terms of risk factors.
- When the behavior is not high risk/complex and can be managed in the department.

Approach:

Have a constructive conversation.

- Initiate the conversation with the desire for a positive outcome.
- Describe the concerning behaviour and its impact.
- Focus on the concerning behavior and not the person.
- Consider a private, mutually agreeable location and time.
- Actively listen to understand the other person's perspective.
- Clarify behavioural expectations that set the tone for a safe and respectful environment.
- Person managing the concern should confirm and document the conversation, referencing any related policies.

If the concern cannot be resolved, becomes high risk, represents a serious breach of an APSEA policy or the behaviour continues; other ways of addressing the concern should be explored through the Supported Approach by contacting the Diversity, Equity, and Inclusion Consultant or Human Resources.

Consider these things before the conversation.

- Assessing the skill, ability, and comfort level required to have a conversation to resolve the concern and what additional support may be needed.
- Maintaining confidentiality.
- Making notes after the conversation.
- Considering the wellbeing of the persons involved and accommodations as appropriate.
- Other supports such as EFAP, union as applicable.

Supported Approach Defined

This approach is led by Human Resources (HR) Department. This would involve a member of the HR team which could include the Diversity, Equity, and Inclusion Consultant, and occurs when an employee has tried the Independent Approach with no success and/or wishes to resolve a concern and needs third party support to do so. This approach can also occur if a Supervisor/Manager or Director has been unsuccessful in addressing concerning behaviour and needs additional support to do so.

APSEA may also determine that a concern requires a fact-finding approach and elect to use this approach. In these circumstances, Supervisors/Managers, Diversity, Equity and Inclusion Consultant or Human Resources can provide support in documenting information required to ensure APSEA has all the information needed to review the concern.

For concerns raised that may be high risk and/or require more significant support or fact-finding, the individual raising the concern or, in the case of concerning behaviour(s) in a work setting, the Supervisor/Manager must contact the Diversity, Equity, and Inclusion Consultant or Human Resources for additional guidance.

Considerations for using the Supported Approach may include a number of factors including but not limited to:

- Does the concern fall under other related APSEA policies or codes of conduct?
- Is the concern unlawful, a violation of human rights or have other legal considerations?
- Is there a risk to safety, health and/or wellness?
- What social dynamics and relationships need to be considered?
- Is the concern complex and/or multifaceted?
- What is the impact on individuals and community?
- What are the privacy and confidentiality considerations?

Supported approaches include options that range from more relational (e.g., conflict coaching, mediation) to more administrative (e.g., shuttle diplomacy, fact-finding) in nature. Relational options focus on connection, participation, and developing, maintaining, and restoring positive relationships.

The more administrative options are less flexible and may have less emphasis placed on relationships as part of the process. Some (e.g., fact-finding) are very structured with little input from those involved, with potential outcomes determined by APSEA.

When this approach is used

- When individuals want to address a concern but do not feel comfortable approaching the other person directly.
- When individuals need support to discuss the experience, clarify the concern and maintain or restore a relationship.
- When Independent Approach or Addressing Concerning Behaviour in the Class or Work Setting has not been successful.
- When the concern is high risk or complex and more support is required.
- When the concerning behaviour has been assessed as serious, unlawful, a violation of human rights, constitutes a risk to the health, physical or psychological safety of any person, is part of a more extensive issue or is a repeated course of behaviour.

Resources available to individuals include advice, coaching, and:

- guidance to help overcome communication barriers and engage in constructive conversation.

- support in clarifying the concern and potential options available in working towards resolution.

Approach:

See the Respectful Workplaces Guidelines for the full range of options and a description of each conflict resolution option.

Impartial third-party facilitated options may be utilized in this approach, including:

- consultation.
- needs assessments.
- conflict coaching.
- facilitated dialogue.
- mediation.
- group work.
- restorative conference.

Fact finding may include, but is not limited to:

- information gathering.
- investigative approaches appropriate to the situation and/or allegation.
- referral to another policy as appropriate to the situation.

At times, it may be necessary for Human Resources and/or the Diversity, Equity, and Inclusion Consultant to use a blend of approaches above, depending on the details of the situation.

General Provisions for the Supported Approach

a) **Determining Appropriate Policy**

Where it appears that the concern is outside the scope of this policy or is one that should be more appropriately dealt with under another policy, Act, or procedure, APSEA reserves the right to determine the approach to deal with the concern or refer it to the appropriate forum.

b) **Time Limits for Raising a Concern**

Concerns should be raised as soon as possible and normally no later than one (1) calendar year following the last incident forming the basis of the concern. APSEA may extend the time in extenuating circumstances.

c) Confidentiality

APSEA will take reasonable precautions to maintain confidentiality, to the greatest extent possible, in the resolution of concerns raised through the Respectful Workplaces Policy. All persons involved in any of the outlined approaches will be required to maintain confidentiality to ensure the integrity of the process.

In some cases, APSEA cannot guarantee complete confidentiality, for example:

- where confidentiality would prevent effective fact finding, resolution or referral of concerns, or outcomes.
- in cases involving imminent danger and/or suspected abuse.
- where otherwise required by law or any other APSEA policy.

APSEA recognizes that students and employees may seek support during the process through various counselling and support contacts such as Employee & Family Assistance, or their union representatives.

d) Communication

Communication regarding a specific concern is dependent upon the nature of the concern, who was involved, personal privacy and safety considerations. APSEA will make the decision regarding communications on a case-by-case basis. Information will be shared on a need-to-know basis, in accordance with this Policy and by law.

e) Procedural Fairness

The principles of procedural fairness shall be followed by any decision makers and finders of fact under the Respectful Workplaces Policy. To the extent possible and consistent with confidentiality obligations, individuals involved in concerns that require fact finding shall be apprised of the fact finding and the concern raised. All parties will be given the opportunity to fully explain what happened from their perspective and to have their information and concerns fully considered.

For more information on procedural fairness, refer to the Definitions section of the Respectful Workplaces Policy.

f) Support Persons

Community members may elect to be accompanied by an observer or representative of their choosing during any interview, meeting, or mediation under these procedures. For bargaining unit positions, an employee may elect to have their union present. For non-union employees, APSEA may provide a support resource upon request. The role is to provide emotional support, reassurance and to observe that the process is fair.

The wish to be supported should be indicated in advance, and a full description of the role the support person plays in the process will be provided.

g) Retaliation

Retaliation against any individual participating in any of the resolution approaches shall be a serious violation of the Respectful Workplaces Policy and procedures. APSEA may act, including disciplinary measures, should retaliation against any individual participating in a resolution approach occur.

h) Interim or other Safety Measures

In some circumstances, considering the parties involved and the impact to the work dynamic, it may be appropriate to implement measures pending resolution. APSEA may consider measures including, but not limited to separation of the parties, alternate work/evaluation arrangements or non-disciplinary administrative leave.

i) Abuse of Process

Allegations determined to be frivolous, vexatious, or made in bad faith, shall be a violation of this Policy and procedures and grounds for disciplinary action by APSEA.

j) Withdrawal

An individual raising a concern shall not be obliged to proceed and shall have the right to withdraw the concern at any point. APSEA may, however, proceed where it believes that circumstances warrant it and the individual who raised the concern may be required to participate in the fact-finding process.

k) No Appeal

Outcomes under an administrative approach are final. An individual who is dissatisfied with the outcome may proceed through any other channels available through policy or law.

l) Records

Any records created using a Supported Approach (including administrative options) shall be securely and confidentially stored in a location separate from employee files.

m) Employee Records

If a breach of policy or Code of Conduct occurred, and if disciplinary action was taken, a letter indicating that disciplinary action is taken is the only documentation that will appear on an individual's official student or employment file as applicable.

Potential Outcomes

A substantiated allegation of behaviour in breach of policy or a Code of Conduct could have one or more outcomes dependent upon the seriousness of the behaviour. Examples of outcomes include, but are not limited to:

- providing an apology.
- mediation.
- coaching and/or training.
- disciplinary action up to and including dismissal (employee).
- reporting to external authorities (in case of unlawful behaviour).

Communication and Distribution

APSEA will distribute the approved policy and procedures to all employees, as well as make the policy available online.

APSEA will ensure all employees receive notification when new or revised procedures have been updated online.

Procedure Supports

- APSEA Respectful Workplaces Policy
- APSEA Respectful Workplaces Guidelines