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1. Policy Statement

Discrimination and harassment are illegal and prohibited when they are based upon religion, creed, marital status, sex, sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race or perceived race, receipt of public assistance, physical size, weight or personal harassment.

The university does not condone, and may take action to address, behaviour that interferes with the provision of a positive, productive environment for working or learning. Examples of prohibited behaviours include disorderly or abusive conduct or language, spreading malicious rumours, damaging property, mean spirited or dangerous pranks or practical jokes, hazing, shouting or screaming, aggressive verbal or physical behaviour and rude, demeaning, intimidating or threatening behaviour.

2. Jurisdiction

This policy applies to university students and employees, employees who work on university administered grant or research funded projects, university contractors and volunteers. It covers alleged violations that occur on or off campus where there is a substantial connection with the university.

Situations involving violent incidents or potential incidents of violence will be handled using the procedures contained in the University's Violence Policy. Situations involving sexual assault or sexual misconduct or potential incidents of sexual assault or sexual misconduct will be handled using the procedures contained in the University's Sexual Assault Prevention Policy.

Nothing in this policy will limit or amend the provisions of any collective agreement or prevent someone from pursuing a complaint with the Saskatchewan Human Rights Commission, Saskatchewan Labour, the police or the courts.

Subject to existing collective agreements, the formal resolution procedures in this policy cannot be used if a complaint is, or has been addressed using another university procedure such as a grievance.

3. Confidentiality

University Officials. Senior Administrators, Department Heads, Directors, Managers and Human Resource Consultants (*hereafter referred to as University Officials*) will protect the confidentiality of information regarding a potential violation of this policy to the fullest extent possible. However, these individuals cannot guarantee complete confidentiality because they are legally obligated to take whatever action is necessary to prevent discrimination and harassment and correct it when it occurs. They also have an obligation under this policy to take action to prevent and correct behaviour that interferes with the provision of a positive and productive environment for working and learning.

Discrimination and Harassment Prevention Services. Consultations between Discrimination and Harassment Prevention Services and employees or students will not be disclosed to others or acted upon without their permission.

Notwithstanding, Discrimination and Harassment Prevention Services reserves the right to disclose information and take action in cases where disclosure is required by law, the complaint or situation has already come to the attention of a University Official, there is imminent danger to the persons or suspected child abuse.

4. Records

Records pertaining to complaints that result in disciplinary action will be retained in the respondent's official employee file in accordance with existing university policies, procedures and collective agreements.

No record of a complaint will be kept in the complainant's official student or employee file except the record of disciplinary action resulting from a complaint that is made in bad faith.

Any information pertaining to reports or incidents will be kept by Discrimination and Harassment Prevention Services for a period of fifty years or while any legal or official proceedings are pending. After this time, the records will be destroyed.

These records are strictly confidential and will only be disclosed when disclosure is required by law or by a legal or official proceeding.

5. Responsibilities

University Officials. University Officials have a legal responsibility to take prompt, effective action to prevent and address known or apparent incidents of discrimination and harassment, whether they receive a complaint or not. They are also responsible for:

- a. taking action to promote a positive, productive environment for working and learning and to correct behaviour that interferes with this goal;
- b. seeking advice regarding a potential violation of this policy from Discrimination and Harassment Prevention Services or a Human Resource Consultant.

Senior Administrators. Under this policy, Senior Administrators include: Deans (when respondents belong to the USFA or are employees in a college); Directors or Associate Vice Presidents in charge of an administrative Unit, Vice Presidents (when respondents are Directors of an administrative unit or Associate Vice Presidents), the President (when respondents are Vice Presidents), the Board of Governors (when the respondent is the President) and the Associate Dean of Postgraduate Medical Education (when respondents belong to PAIRS).

These individuals (or their designees) are responsible for:

- a. determining when a formal investigation will occur;
- b. directing and overseeing formal investigations, as outlined in sections 10 and 11.

Human Resources (HR) is responsible for:

- a. providing Senior Administrators with advice and assistance regarding formal investigations of complaints involving employees;
- b. helping departments and units create and maintain a positive working environment;
- c. promoting this policy and ensuring that it is communicated to employees.

Student and Enrolment Services Division (SESD) is responsible for promoting this policy and ensuring that it is communicated to students.

6. Definition of Discrimination and Harassment

This policy prohibits all forms of discrimination and harassment that are defined under the *Saskatchewan Human Rights Code*, and the *Occupational Health and Safety Act, 1993 and Regulations*.

Discrimination under the Saskatchewan Human Rights Code

It is against the law to discriminate against anyone based upon the following prohibited grounds: ancestry, race or perceived race, religion, sex, marital status, disability, nationality and place of origin, age, sexual orientation, family status or receipt of public assistance.

Three forms of discrimination are included under Human Rights legislation: systemic discrimination, differential treatment, and harassment.

Systemic Discrimination. Systemic discrimination occurs when policies, practices or procedures that appear to be neutral, have a discriminatory effect on an individual or group who is identified by a prohibited ground.

Differential Treatment. Differential treatment occurs when an individual or group who is identified by a prohibited ground is subject to treatment that has the purpose or effect of imposing burdens, obligations, disadvantages or preferences on the person or group that are not imposed on others.

Harassment. Harassment is a form of discrimination that occurs when an individual or group is subject to unwanted behaviours, remarks or communications that are based on a prohibited ground and create a hostile, intimidating environment for working or learning. To qualify as harassment the complaint will need to involve a serious, isolated incident or a series of unwanted remarks, behaviours or communications.

Harassment includes **Sexual Harassment**, which is a form of harassment based on the prohibited ground of sex. Unwelcome conduct of a sexual nature constitutes sexual harassment when:

- a. submission to, or rejection of, such conduct is implicitly or explicitly made a term or condition of an individual's employment or academic status, or
- b. such conduct is used as a basis for making decisions relating to an individual's employment or academic status or welfare as an employee or student, or
- c. the unwanted, sexually oriented remarks, behaviours or communications create a hostile, intimidating environment for working or learning.

Duty to Accommodate. The university has a legal responsibility to accommodate individuals' special needs that are related to a prohibited ground, unless it can be shown that the accommodation would result in undue hardship.

Accommodations associated with disabilities can be arranged by Disability Services for Students (for students) and the Health and Wellness Resource Centre (for employees).

Harassment under the Occupational Health and Safety Act, 1993 and Regulations

Harassment under the *Occupational Health and Safety Act, 1993 and Regulations* is defined as any inappropriate conduct, comment, display, action or gesture by a person that either:

- a. is based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin, or
- b. subject to subsections (3) and (4), adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated,
and
- c. that constitutes a threat to the health or safety of the worker.

To constitute harassment under this legislation, "repeated conduct, comments, displays, actions or gestures must be established; or a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture that has a lasting, harmful effect on the worker must be established." Harassment does not include, "any reasonable action that is taken by an employer, or a manager or supervisor employed or engaged by an employer, relating to the management and direction of the employer's workers or the place of employment."

While the Occupational Health and Safety Act, 1993 and Regulations applies to employees, under this policy, with appropriate modification, this definition of harassment will also apply to complaints of harassment by and against students.

7. Other Prohibited Behavior

Disruptive Workplace Conduct and Mistreatment.

The university does not condone behaviour that interferes with the provision of a respectful, productive environment for working or learning, but is not pervasive or significant enough to meet the definitions of harassment and/or discrimination described above. Depending upon the situation, examples of behaviour that may fall into this category include (but are not limited to) behaviour that shows disrespect for the dignity of others and unreasonably interferes with the learning process or a respectful workplace, such as spreading negative rumors, belittling or humiliating someone, mean spirited pranks or practical jokes, being spoken to in a sarcastic or insulting manner, yelling, swearing, or subject someone to offensive remarks or names, require someone to perform personal services and other behaviours that are demeaning, intimidating or threatening.

University Officials are responsible for addressing instances of disruptive workplace conduct and mistreatment in a timely and appropriate manner, which may include corrective action or discipline. Complaints regarding behaviour that falls into this category should be reported to a University Official or Discrimination and Harassment Prevention Services.

Conflicts of Interest

The university prohibits individuals in positions of authority, such as faculty or managers, from grading, evaluating or supervising the work of any student or employee with whom they are having a consensual sexual relationship.

Should such a relationship exist or develop, the individual in authority must immediately report it to his or her administrative superior, who will ensure that alternate arrangements are made for the evaluation and/or supervision of the employee's or student's work.

Retaliation and Intentionally False Complaints

This policy prohibits acts of retaliation including threats, intimidation, reprisals or adverse employment or education action, against a person who has filed a complaint or participated in any manner in the investigation or resolution of a report of discrimination or harassment.

Intentionally false accusations of discrimination or harassment (complaints that are made in bad faith) are also prohibited under this policy. These complaints occur when a person purposefully misrepresents the facts or makes accusations maliciously, without regard for the truth. Intentionally false accusations do not include reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

Allegations that a complaint has been made in bad faith or that retaliation has occurred may be investigated using the same procedure that is used to investigate complaints of discrimination or harassment.

Individuals who are found to have engaged in retaliation or made deliberately false accusations of discrimination or harassment will be subject to corrective and/or disciplinary action.

8. Options for Resolution

Reports and complaints of discrimination and harassment can be resolved using informal and/or formal procedures. Informal approaches focus on resolving the problem as opposed to determining right or wrong or taking disciplinary action.

This type of resolution may include consultation, raising the matter directly with the offending party or mediation.

Formal approaches to resolution focus on establishing the facts and implementing appropriate corrective and/or disciplinary action. These approaches, which include formal investigations, grievances and procedures for resolving student complaints and appeals, are typically used to address incidents that involve reports or allegations of serious misconduct, ongoing patterns of inappropriate behaviour or situations where the facts of a case are not clear.

9. Reporting Complaints

A person who believes that he or she has been subject to behaviour that violates this policy should immediately report their concerns to Discrimination and Harassment Prevention Services or a University Official.

Reporting to Discrimination and Harassment Prevention Services

Subject to the provisions in section 3, Discrimination and Harassment Prevention Services will provide confidential consultation to assess complaints or incidents, determine whether they fall under this policy and outline options for resolution.

Individuals who consult Discrimination and Harassment Prevention Services may choose:

- a. not to pursue the complaint;
- b. to ask Discrimination and Harassment Prevention Services to facilitate a resolution or resolve the matter informally;
- c. to request a formal investigation under this policy;
- d. to take action to resolve the issue directly or address it using another university procedure;
- e. to pursue the complaint with the Saskatchewan Human Rights Commission, Saskatchewan Labour, the police or courts.

Reporting to a University Official

Incidents may also be reported to a University Official. When these individuals receive a complaint or become aware of an incident, they should confer with a Human Resources Consultant to determine an appropriate course of action.

Time Limits for Reporting and Addressing Complaints

Barring exceptional circumstances, to be considered under this policy, a report or complaint must be made within one year of the occurrence of the alleged incident(s).

Complaints of discrimination and harassment will be given a high priority and every reasonable effort will be made to address them in a timely manner. Time lines in this policy are intended to serve as guidelines and will be followed to the extent possible.

10. Formal Complaints

Formal Complaints Against Students

Formal complaints of discrimination and harassment against students may be filed using the procedures in the *Standard of Student Conduct in Non-Academic Matters and Procedures for Resolution of Complaints and Appeals*.

Formal Complaints Against University Employees

Formal investigations may be requested by complainants, respondents and University Officials. A request for a formal investigation is initiated by filling out a Written Complaint Form and submitting it to Discrimination and Harassment Prevention Services.

Discrimination and Harassment Prevention Services will forward a copy of this Form to the relevant Senior Administrator (and HR Consultant) who will have 20 working days to decide if a formal investigation is warranted. The decision to conduct a formal investigation will be made after the Senior Administrator has reviewed the written complaint and interviewed the complainant and respondent, who will be given a written summary of the formal complaint prior to his or her interview. The Senior Administrator will inform the parties of his or her decision in writing and forward a copy of this decision to Discrimination and Harassment Prevention Services.

Investigation

The purpose of a formal investigation is to determine if there is substance to a complaint and decide upon an appropriate course of action to address the issue.

The relevant Senior Administrator shall direct and oversee the investigation and may assign a person or persons to assist in carrying it out.

Investigations will be conducted in accordance with the principles of natural justice and due process including:

- a. the right to be fully informed of any allegations and given an opportunity to respond to them;
- b. except for those employees who are covered by a collective agreement and have the benefit of union representation, complainants, respondents and witnesses have the right to be accompanied by an observer, who may be a representative or a support person.

When the investigation is complete, a written report, hereafter referred to as the investigation report, will be prepared by the Senior Administrator or his or her designee.

The report will contain relevant background information including a summary of the incidents leading to the complaint and a list of the allegations. The report will also present the positions of the positions of the parties and the evidence or factual assertions supporting those positions.

The investigation, including the investigation report, will be completed within 60 working days of the time that the respondent was notified that an investigation would be conducted.

The Senior Administrator will provide the complainant and respondent with a written summary of the findings and offer them 10 working days to submit a written response. Any responses that are received will be considered in making the final decision.

11. Written Decision

The Senior Administrator will have 15 working days after the period for providing additional submissions has elapsed to:

- a. implement any additional steps prior to making a final decision, and/or
- b. prepare a written decision. The written decision will contain a determination as to whether or not, on the balance of probabilities, a violation of the university's policy has occurred and information on the procedures for appeal, as outlined in section 13.

Subject to existing university agreements and regulations, it will also include any disciplinary or remedial action to be taken. A copy of the written decision will be sent to the complainant, the respondent and Discrimination and Harassment Prevention Services.

12. Systemic Discrimination

Complaints of systemic discrimination, which is defined in section 6, should be directed to Discrimination and Harassment Prevention Services who will review the alleged discriminatory procedure or practice and prepare a report that summarizes the findings.

A copy of this report will be forwarded to the University Official who is administratively responsible for the procedure or practice. This person will correct any issues of systemic discrimination that are found and inform Discrimination and Harassment Prevention Services in writing about the outcome of the complaint.

13. Appeals

There is no appeal under this policy for complainants or respondents who are members of ASPA, CUPE 1975, CUPE 3287, PAIRS, or USFA. These individuals may grieve any action taken by the university using the grievance procedure in the relevant collective agreement.

Appeals Under this Policy

Complainants who are students and complainants or respondents who are nonunionized employees may appeal the decision of a formal investigation by submitting an Appeal Form to Discrimination and Harassment Prevention Services within 10 working days of the date that a copy of the written decision was delivered to them.

Discrimination and Harassment Prevention Services will forward a copy of the appeal form to the AVP HR, the Senior Administrator who originally decided the case and the other party.

Within 15 working days of receiving the request, the AVP, or designee, will select an Appeals Committee consisting of three individuals and appoint one of the members to act as Chair. No

individual will be appointed to the committee who has had direct involvement in the case or is from the college or department of either the complainant or respondent.

The Appeals Committee will have 20 working days to determine the outcome of the appeal and prepare a written decision, which the Chair will forward to the relevant Senior Administrator, the AVP and Discrimination and Harassment Prevention Services.

The Senior Administrator will have 15 working days to consider the committee's decision and make a final written determination. He or she will forward a copy of this determination to the parties, the AVP and Discrimination and Harassment Prevention Services.

No further appeal may be made under this policy.

14. Procedural Modifications

Where an exceptional circumstance arises, a Senior Administrator, in consultation with the AVP HR, may authorize modifications to the procedures in this policy, as long as the modification does not compromise due process.