



UNIVERSITY OF
SASKATCHEWAN

**DISCRIMINATION
AND HARASSMENT
PREVENTION
SERVICES (DHPS)**

Policy Procedures

1. Definitions

These Procedures adopt the definitions outlined in the Policy, as well as the following:

Burden of Proof: When an individual (Complainant) makes a discrimination or harassment complaint, it is up to them to provide evidence of what has occurred. It is not up to the individual (Respondent) who has been accused of discrimination or harassment to disprove the complaint.

Balance of Probabilities: Refers to whether there is sufficient evidence or proof to substantiate the allegations of discrimination or harassment against an individual. A Balance of Probabilities requires that it is more likely than not that the conduct complained of has occurred.

Complainant: Is a party filing a formal complaint pursuant to these Procedures.

Complaint: Is a formal complaint filed in accordance with the process outlined in these Procedures.

Policy: Is the University of Saskatchewan's Discrimination and Harassment Prevention Policy (unless otherwise identified, herein).

People Leader: For the purpose of these procedures, means Senior Administrators, Exempt Directors and Exempt Managers/Supervisors (unless otherwise identified, herein).

Respondent: Is an individual who is the subject of a formal complaint filed in accordance with the process outlined in these Procedures.

Student Discipline Policy: Refers to the Standard of Student Conduct in Non-Academic Matters and Regulations and Procedures for Resolution of Complaints and Appeals as is appropriate in the circumstances.

University/USask: Is the University of Saskatchewan.

2. Scope of Procedures

The University of Saskatchewan is committed to creating and providing students and employees with a positive, healthy and safe environment for working and learning that is free of discrimination and harassment. These Discrimination and Harassment Prevention Policy Procedures have been established to support the university's obligations to address circumstances of discrimination and harassment (real or perceived) raised by members of the university community. Alleged violations that occur on and off campus (where there is an evident connection with the University) are covered by these procedures.

These procedures apply to members of the university community that have status with USask, including university students (as Complainants only) and employees (including employees who work on university administered grant or research-funded projects), student trainees, independent and dependent contractors, volunteers and visitors. Please note that the USask Discrimination and Harassment Prevention Policy and Policy Procedures do not apply where students are accused of discriminatory and/or harassing behaviours. In these instances, USask's **Student Discipline Policy** will apply. In addition, the USask DHP Policy and Policy Procedures are not applied when allegations of discrimination and/or harassment are made against Medical Faculty. In these circumstances involving Medical Faculty, the **Procedures Manual for Medical Faculty** will be used.

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

Nothing in these procedures will limit or amend the provisions of any collective agreement or prevent someone from pursuing a Complaint through the Saskatchewan Human Rights Commission, Saskatchewan Occupational Health and Safety, the Police or the Courts. However, subject to existing collective agreements, pursuing a complaint through one body may take precedence over pursuing a Complaint through another.

Workplace conduct that is deemed to be inappropriate but that does not meet the threshold of discrimination and/or harassment will be addressed through other relevant policies, procedures and/or collective agreements.

3. Confidentiality

The University will protect the confidentiality of individuals' information and events relating to an inquiry or a Complaint to the extent possible, and except where disclosure is required by law. The details and particulars of Complaints or potential Complaints will not be disclosed or discussed with any individuals or parties other than those deemed necessary to address, investigate and/or resolve the Complaint, or as required by law.

For those individuals who are involved in filing, responding to, addressing, investigating and/or resolving formal Complaints made under the USask DHP Policy and Policy Procedures, participation requires identification (i.e. names, employment status, position at USask, etc.) to be disclosed to ensure procedural fairness and effectiveness.

Where the University becomes aware of a health and safety concern, which may jeopardize the safety of members of the campus community, the University will take the necessary steps to ensure a safe campus environment.

4. Discrimination and Harassment Prevention Services (DHPS)

Discrimination and Harassment Prevention Services promotes a proactive, early-intervention approach to addressing and resolving instances of real or perceived discriminatory and/or harassing behaviour. A person who believes that they have been subjected to behaviour that violates this Policy is encouraged to contact DHPS and initiate an inquiry.

DHPS provides a safe space for inquiring about matters of discrimination and harassment. Together with an independent **third-party provider**, a mindful and compassionate approach when receiving inquiries and complaints is taken, and DHPS seeks to offer clarity and transparency on what to expect from the services available.

For inquiries pertaining to matters of discrimination and harassment, individuals may submit a DHPS inquiry ticket via the link located on the **USask DHPS website**.

Subject to the confidentiality provisions in these Procedures, DHPS will provide responses to inquiries and assist individuals with understanding their options under the Discrimination and Harassment Prevention (DHP) Policy and these Procedures or other applicable policies.

Individuals may choose:

- a. not to pursue a Complaint;
- b. to pursue their own informal resolution;
- c. to request the assistance of the Discrimination and Harassment Prevention Services to identify options for a potential informal resolution;
- d. to pursue or address the issues/concerns through another University policy or procedure;
- e. to file a formal Complaint pursuant to these Procedures;
- f. to pursue the Complaint with the Saskatchewan Human Rights Commission, seek the assistance of an occupational health officer (in the employment context), and/or exercise any other legal rights they may have pursuant to law.

Initial communications with Discrimination and Harassment Prevention Services do not constitute a formal Complaint.

5. Stakeholder Responsibilities

All employees and students have a responsibility to take prompt, effective action to prevent discriminatory and/or harassing behaviours and to address and resolve known or apparent incidents of discrimination and harassment. Please review the **USask Guide to Discrimination and Harassment Prevention**.

People Leaders, at all levels of the University, are responsible for taking action to:

- a. promote a safe, healthy, respectful, positive and productive environment for working and learning; and
- b. correct behaviour which interferes with providing a safe, healthy, respectful, positive and productive environment for working and learning.

In the context of the formal complaint process, designated People Leaders are responsible for:

- a. acknowledging receipt of formal Complaints, including issuing notifications to Complainants and Respondents;
- b. ensuring the Complainants and Respondents have awareness and understanding of USask's DHP Policy and Policy Procedures;
- c. determining appropriate next steps (e.g. arrange alternate dispute resolution between the parties, dismiss Complaint, workplace assessment, proceed with investigation);
- d. directing and overseeing investigations conducted under the USask DHP Procedures;
- e. subject to existing policies and collective agreements, deciding on the appropriate corrective action (if any) in response to the Complaint.

Human Resources and/or Faculty Relations are responsible for:

- a. providing designated People Leaders with advice, guidance and assistance with respect to: awareness and understanding of the USask DHP Policy and Procedures; managing the formal complaint process; determining appropriate steps and options available throughout the complaint process; and implementing appropriate remedial and/or restorative actions;
- b. assisting academic and non-academic units with creating and maintaining a safe, healthy, respectful, positive and productive working and learning environment;
- c. promoting awareness and providing education around respectful workplace, establishing a workplace free from discrimination and harassment and ensuring awareness and understanding of relevant policies and procedures.

Nothing in this section prevents a designated People Leader, Human Resources and/or Faculty Relations from engaging other resources or expertise, as needed, throughout the formal complaint process.

6. Options for Resolution

Reports and formal Complaints of discrimination and harassment may be resolved by using alternate dispute resolution methods or by using formal procedures. Alternate dispute resolution is a voluntary, consensual and confidential process intended to assist the parties to resolve concerns, issues and/or conflict in a mutually agreeable manner. This type of resolution may include informal and non-adversarial measures such as consultation, raising the matter directly with the accused party (with or without involvement of the People Leader) and/or mediation between the parties.

Formal procedural approaches to resolution focus on establishing the facts and implementing appropriate corrective and/or disciplinary action. These approaches, which include investigations, grievances, and procedures through the Student Discipline Policy, may be used where alternate dispute resolution is not considered appropriate in the circumstances or where alternate dispute resolution has occurred but has not resulted in a mutually agreeable outcome for the parties.

7. Formal Complaints

Time Limits for Reporting and Addressing Complaints

Barring exceptional circumstances, to be considered under the USask Discrimination and Harassment Prevention Policy, a Complaint must be made within one (1) 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. Timelines identified in the formal complaints process outlined below are intended to serve as guidelines and will be followed to the extent possible.

Reporting to a University Official

Individuals may also raise concerns of discrimination and harassment with a University Official. When a University Official becomes aware of an incident of discrimination or harassment or receives a Complaint, they should confer with a Human Resources Strategic Business Advisor (HR SBA) or Faculty Relations, to determine an appropriate course of action.

Submitting Formal Complaints to Discrimination and Harassment Prevention Services and Pre-assessment of Complaints

Formal Complaints occur by completing a **complaint ticket** and by providing the required information (see **Components of a Complaint - Required**). Upon submission of a formal Complaint, the Complainant will receive an automated notification of the submission and will be contacted by DHPS within 24-48 hours to schedule a meeting with a representative from DHPS.

Once a ticket with the required information is received, and the formal complaint process is to commence, DHPS will:

- acknowledge receipt of the Complaint;
- issue a notification and copy of the Complaint to the relevant People Leader, HR SBA, Employee and Labour Relations Specialist and/or the Vice-Provost, Faculty Relations
- complete a pre-assessment of the Complaint; and
- provide the pre-assessment to the People Leader, HR SBA, Employee and Labour Relations Specialist and/or Vice-Provost, Faculty Relations to assist in determining the appropriate next steps in the complaint process.

Where appropriate, DHPS, Employee and Labour Relations and/or Faculty Relations, in consultation with the respective People Leader, have the authority to dismiss the Complaint (with or without providing notification to the Respondent) based upon one or more of the following grounds:

1. The Complaint is outside the jurisdiction of the Policy and/or scope of these Procedures.
2. The Complaint is submitted beyond the required timeline [i.e. not within one (1) year of the alleged incident(s)].
3. The allegations in the Complaint, even if proven, would not constitute discrimination or harassment as defined in the Policy and/or provincial legislation.
4. The allegations have already been addressed pursuant to the Policy and these Procedures, proceedings under another University policy, or comparable proceedings.
5. The Complaint is frivolous, vexatious, or is made in bad faith.

Unless dismissed pursuant to the above-mentioned authority, the People Leader will acknowledge receipt of the Complaint with the Complainant and Respondent. In addition, the People Leader will provide the Respondent with sufficient information for the Respondent to be fully informed of the nature and substance of the allegations and set a reasonable timeline for the Respondent to provide a written response [including any documents, evidence or other materials upon which the Respondent(s) intend to rely].

Within 20 business days from receiving a written response from the Respondent, or a longer period where extraordinary circumstances require, the People Leader will determine the appropriate next steps, including but not limited to, whether further investigation is warranted, and they will inform the parties in writing of the determination.

Alternatively, the People Leader may determine that the issue should be addressed under a different University policy or proceeding.

Retaliation and Bad Faith 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 of retaliation or a Complaint being made in bad faith will be addressed through the relevant University policy (including the Student Discipline Policy in cases involving students), collective agreement, employment practices and/or legislation.

Investigation

The purpose of an investigation is to gather relevant facts, determine if there is substance to a Complaint and decide upon an appropriate course of action to address and resolve the issue. A Complainant bears the Burden of Proof in demonstrating that the Respondent engaged in actions that violate the Policy. The relevant People Leader shall direct and oversee the investigation and may investigate and/or engage an independent investigator (internal or external) to carry out an investigation.

Investigations are not court proceedings and, therefore, are not bound by the strict rules of evidence or legal procedures. As such, the People Leader may determine the process by which the Complaint will be investigated. Investigations will be conducted in accordance with the principles of natural justice and due process, including:

- a. the right of a Respondent 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.

An investigation will be completed in as timely a manner as possible, without compromising the integrity or fairness of the investigation. At the conclusion of the investigation process, a written report will be prepared at the direction of the People Leader. Subject to extraordinary circumstances, the university will generally seek to produce a written report that 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 parties and the evidence or factual assertions supporting those positions. In addition, the report will outline the findings ascertained by the investigator.

The university will endeavor to issue a written summary of the investigation report and findings within 90 calendar days of informing the Complainant and Respondent of the decision to investigate a Complaint. This timeline may be extended at the discretion of the People Leader where circumstances require.

The People Leader will provide the Complainant and Respondent with the written summary of the report and findings and offer them 10 working days to submit a written response. Any responses that are received will be considered by the People Leader in making the final written decision.

8. Written Decision

The People Leader will have twenty (20) working days, after the period for providing additional submissions (submitted by Complainant and/or Respondent) has elapsed, to prepare and distribute a written determination of whether, on the Balance of Probabilities, a violation of the Policy has occurred. A copy of the written decision will be sent to the Complainant, the Respondent, Human Resources and/or Faculty Relations.

Subject to existing University collective bargaining agreements, University policies and regulations, the People Leader will determine whether any disciplinary, remedial and/or restorative actions are to be taken. Determination of sanctions may be included in the written decision, or may follow, as is appropriate in the circumstances.

9. Appeals

Decisions issued in accordance with these procedures are final and are not subject to an appeal process.

10. Records

Records pertaining to Complaints that result in disciplinary action will be retained in the official employee personnel file or student file in accordance with existing University policies (including Student Discipline Policy), procedures and collective agreements.

The University may retain records relating to a Complaint or proceeding, as needed, depending upon the context and in accordance with its obligations under privacy legislation.

11. Operational Considerations

Nothing in the Policy or Procedures is intended to impede or constrain the ability of a People Leader to make decisions necessary to ensure the ongoing functionality of University operations and/or to implement appropriate measures to protect the safety and wellbeing of individuals before, during, or after a Complaint has been filed and received.