

University of Saskatchewan's policy procedures on discrimination and harassment

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1. Policy Statement

Discrimination and harassment are illegal and prohibited when they are based upon religion, creed, marital status, family status, sex, gender identity (including gender expression and two spirit identity), sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race or perceived race, or receipt of public assistance; or on physical size or weight, sexual harassment, 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 members of the university community, including 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 Strategic Business Advisors (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 members of the USask community 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.

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 Resident Doctors of Saskatchewan (RDoS)).

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 9 and 10.

Human Resources (HR) is responsible for:

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

Teaching, Learning and Student Experience (TLSE)

TLSE responsible for promoting this policy and ensuring that it is communicated to students.

6. Other Prohibited Behaviour

Disruptive Workplace Conduct and Mistreatment

USask 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, discrimination, or sexual harassment 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 subjecting someone to offensive remarks or names, requiring 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.

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.

7. Options for Resolution

Reports and complaints of discrimination and harassment can be resolved using formal procedures or by using alternate dispute resolution. Alternate dispute resolution is consensual and a confidential process intended to assist the parties to resolve issues and 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 offending party and/or mediation. The University may require the parties to engage in alternate dispute resolution in appropriate circumstances, as determined by the applicable Senior Administrator.

Formal procedural 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, will be used where alternate dispute resolution is considered not appropriate in the circumstances or where alternate dispute resolution has occurred but has not resulted in a mutually-agreeable outcome for the parties.

8. Reporting Complaints

A person who believes that he or she has been subject to behaviour that violates this policy is encouraged to contact Discrimination and Harassment Prevention Services or a University Official as described below.

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 may submit a DHPS inquiry ticket for general questions, or, a complaint ticket to initiate a formal complaint. Links for inquiry and complaint tickets can be found on USask's DHPS webpage.**

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

Individuals may also relay concerns to a University Official. When a University Official receives a complaint or become aware of an incident, they should confer with a Human Resources Strategic Business Advisor 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. Timelines in this policy are intended to serve as guidelines and will be followed to the extent possible.

9. Formal Complaints

Formal Complaints

Formal complaints of discrimination and harassment can be made against members of the University community, including students and employees, employees who work on university-administered grant or research-funded projects student trainees, independent and dependent contractors, volunteers and visitors. Formal complaints against students who are contracted, employed, or volunteers with USask may occur by completing a Discrimination and Harassment Complaint ticket, and by providing the required information. This ticket will be automatically sent to USask's Discrimination and Harassment Prevention Services, and the complainant will receive automatic confirmation of same.

Once a ticket with the required information is received, a pre-assessment of the complaint will be completed by DHPS. The pre-assessment, along with the complaint ticket and required information will be sent to the relevant Senior Administrator (and HR Strategic Business Advisor and/or Faculty Relations) who will have 20 working days to decide if a formal investigation is warranted or other resolution options may be available. The decision to conduct a formal investigation or explore other resolution options 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 their interview. The Senior Administrator will inform the parties of their decision on next steps about the complaint in writing, and they will inform all necessary parties to the formal complaint.

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 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.

10. 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 12.

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.

11. Systemic Discrimination

Complaints of systemic discrimination 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.

12. Appeals

There is no appeal under this policy for complainants or respondents who are members of ASPA, CUPE 1975, CUPE 3287, PSAC, RDoS 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.

13. 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.