**Administrative Procedure**

**HARASSMENT**

**Background**

Every employee is entitled to employment free of harassment. (ENTER SCHOOL DIVISION) is committed to providing a work environment which is supportive of the productivity, the dignity, and self-esteem of every worker. Harassment will not be tolerated. (ENTER SCHOOL DIVISION) will make every reasonably practicable effort to ensure that no employee is person subjected to harassment.

A copy of the harassment administrative procedure will be provided to all employees as part of their initial employment package and will be posted in a conspicuous place that is readily available for reference by workers.

Workplace harassment extends beyond offices and properties to include harassment which occurs at any place where (ENTER SCHOOL DIVISION) business is being conducted, either in or virtually, at (ENTER SCHOOL DIVISION) affiliated gatherings and events, and that may occur while travelling on business, attending seminars, conferences or meetings.

Nothing in this Administrative Procedure prevents or discourages an employee’s right to file a complaint with the Saskatchewan Human Rights Commission. All employees will be informed of, and expected to adhere to the policy.

**Definition of Harassment (as defined *The* *Saskatchewan Employment Act*)**

(i) “Harassment” means any inappropriate conduct, comment, display, action or gesture by a person: That either:

(A) Is made on the basis of 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 (4) and (5), 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

(ii) That constitutes a threat to the health or safety of the worker

Under the Saskatchewan Human Rights Code and the occupational health and safety legislation, harassment is illegal.

**What is Not Harassment?**

This harassment administrative procedure does not extend or apply to day-to-day management or supervisory decisions involving work assignments, job assessment and evaluation, workplace inspections, implementation of appropriate dress codes and disciplinary action. These actions are not harassment, even if they sometimes involve unpleasant consequences. Note that managerial actions must be carried out in a manner that is reasonable and not abusive.

The administrative procedure also does not extend to harassment that arises out of matters or circumstances unrelated to the worker’s employment. For example, harassment that occurs during a social gathering of co-workers that is not sponsored by the employer is not covered. However, harassment that occurs while attending a conference or training session at the request of the employer is covered within this administrative procedure.

Other situations that do not constitute harassment include:

* Physical contact necessary for the performance of the work using accepted industry standards
* Conduct which all parties agree is inoffensive or welcome
* Conflict or disagreements in the workplace, where the conflict or disagreement is not based on one of the prohibited grounds

Harassment can exist even where there is no intention to harass or offend another. Every person must take care to ensure his or her conduct is not offensive to another.

**Complainant’s Rights**

A complainant is a person who brings forward a complaint to the employer’s attention. The complainant has the right to:

* File a complaint without fear, embarrassment or reprisals (no discriminatory action will be taken against any worker who has exercised his or her rights under this policy)
* Be protected from further harassment
* Be supported during the investigation
* Be supported if by union, alternate or advocate if they so choose
* Contact an occupational health officer at any time during the process
* Be kept informed throughout the process of the status of the investigation and the outcome

**Alleged Offender’s Rights**

All employees are entitled to due process in a complaint procedure. The alleged offender is someone who has been named as a harasser pending the outcome of the complaint. The alleged offender has the right to:

* Be informed that a complaint has been filed
* Be presented with the allegations and to be afforded an opportunity to respond
* Be supported by union, alternate or advocate if they so choose
* Receive fair impartial treatment in an environment free of harassment and discrimination
* Be kept informed of the outcome of the investigation
* Confidentiality during the investigation (except in circumstances when investigation procedures and disciplinary action warrant disclosure)
* Contact an occupational health officer at any time during the process.

**Procedure**

In general, complaints may occur at three levels of increasing significance:

1. The complaint may be addressed through an informal discussion between the complainant and the offender.
2. Complaints may be handled between the complainant and offender at the manager/supervisor level.
3. Complaints may require full investigation.

1. Complainant/Offender Resolution

Many complaints should begin and may end with the complainant expressing his or her harassment issue directly with the complainant. There will be circumstances when this will be difficult or impossible (e.g., power differential between the parties).

2. Manager/Supervisor Resolution

Many complaints begin with written submission provided to the manager/supervisor that if handled at this level will not result in an investigation.

* 1. If a person is named as an alleged offender in a Step 2 complaint, the offender will be informed of the concern and provided an opportunity to respond to the concern raised.

A Step 2 complaint where an alleged offender is named may result in:

* Separate informal discussions between the supervisor and the complainant
* Separate informal discussions between the supervisor and the alleged offender
  + Subject to the agreement of the complainant, a facilitated meeting between the complainant and alleged offender. The meeting would be facilitated by a mutually acceptable individual and would allow the complainant and the alleged offender to address concerns relevant to the behaviour.

A Step 2 complaint where the alleged offender is not named may result in:

* Workshops on the prevention of harassment
  + Information being provided to all workers at the work site regarding the employer's and the union's opposition to such behavior; or
  + Definitions of what harassment is and what constitutes such behaviour.
* Complainants will also be informed of the process involved in making a formal complaint. At any point in the complaint process, either the complainant or the alleged offender may choose to move to a formal complaint procedure and request an investigation.

3. Formal Investigation and Resolution

3.1 At this level formal complaints received by the employer and will lead to an investigation. Upon receipt of such a complaint, the supervisor shall:

* + Determine, based on the complainant's documentation and policy guidelines, whether a case of harassment may exist.
  + Contact a human resource consultant for clarification.
  + Advise the complainant to his/her right to representation – union, alternate or advocate.
  + Review the complaint with the complainant in private and immediately upon it being reported to ascertain facts. Document complaint on official harassment form.
  + Assess the situation to ensure that the complainant is secured from further harassment. If the alleged offender cannot be removed, the supervisor will take all possible precautions to ensure safety of the complainant. If the complaint involves a:
    - * (Supervisor, Manager, and Administrator) as the alleged offender, the complaint is referred immediately to the (who in the organization? Name by title) for investigation and resolution.
      * (Student, volunteer, contractor, supplier, public) who will be informed and involved? May be involved in the investigation and resolution.
* Request a meeting with the alleged offender and advise him/her of their right to representation by union, alternate or advocate
* Interview the alleged offender immediately in private to:
* Identify that a complaint has been lodged and that conduct was perceived as harassment.
* Review all details of the complaint.
* Allow the alleged offender to respond to the complaint, verbally and/or in writing; and
* Ascertain facts and documentation [objective investigation of all the circumstances, including nature and context of incident(s)].
* Ensure notes should be taken during every interview.
* Attempt to resolve the issue immediately (document the results of any resolution reached at this stage and notify the complainant and the alleged offender of the resolution).
* Initiate an investigation as required (conduct an investigation by interviewing witnesses in private and immediately following report to ascertain observations of each situation).
* Provide the complainant and the alleged offender with written results of the investigation (both parties have an opportunity to respond in writing).
* Forward all documentation to the human resources department for appropriate action when a complaint is determined to be substantiated.
* Ensure documentation regarding harassment complaints and investigations is retained by the department head/supervisor and forwarded to the human resources department, pending any further action.
* Not disclose the identity of the complainant or the circumstances of the complaint, except as necessary for further action (investigation or disciplinary action) or as required by law.

4. Findings and Outcomes

Subsequent findings of a harassment complaint will be confidential.

If a harassment allegation is found to be true, findings will be fully disclosed to all parties involved in the allegation. Disciplinary or corrective action may be taken, up to and including suspension of duties or termination of employment, for any violations of this policy. If a harassment allegation is unfounded, findings will be fully disclosed to all parties involved in the allegation.

5. Confidentiality

With this procedure, (Enter School Division), or anyone acting on behalf of the company, should not disclose either the complainant’s or alleged harasser’s name or other identifying information to any person. In certain circumstances, the complainant and alleged harasser may agree to release identifying information in order to implement the harassment administrative procedure, the resolution process, or the final resolution itself.

NOTE: A supervisor who ignores a harassment problem becomes party to the harassment. If prior knowledge is proven, and the problem is ignored, the employer will take appropriate disciplinary action, up to and including dismissal of the supervisor.

The worker:

* + Has the right to be treated with respect, fairness and without harassment.
  + Is entitled to work in an environment with respect and dignity that is free from harassment by the manager, supervisor, co-worker, consumer of health care services, physician or the public.
  + Must refrain from causing or participating in the harassment of another person in the workplace (respect for the dignity and well-being of every individual is a value that all workers are expected to uphold).
  + Has the right to file a harassment complaint and to have their complaint acted upon immediately.
  + Must recognize that harassment is a serious offence and participation in such actions is subject to a range of disciplinary actions up to and including dismissal.

6. Intentional False Allegations

Where an investigation finds a complainant has intentionally made a false allegation, the complainant may be subject to appropriate discipline.

**Reference:** *The Saskatchewan Employment Act -* Sections 3-1(1)(l), 3-8(d), 3-9(c), 3-10(b).

*The Saskatchewan Occupational Health and Safety Regulations, 2020* – Section 3-25

*The Education Act*, Sections 85, 87

Human Rights Code

Canadian Charter of Rights and Freedoms

STF Code of Ethics