



## POLICY AND PROCEDURE STATEMENT

<b>SUBJECT:</b>  Harassment	<b>CATEGORY:</b>  Governance – Legal Requirements	<b>NO.</b>  601
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### **PREAMBLE**

Achievement of a learning and work environment free of harassment requires a commitment by all members of the Saskatchewan Polytechnic community. Expression of this commitment can take many forms including participating in educational programs designed to eliminate harassment; engaging in behaviours that recognize, value and nurture the diversity of the Saskatchewan Polytechnic community and encourage mutual respect; and offering support to those who are subjected to harassment. Members of the Saskatchewan Polytechnic community who become aware of or are subjected to acts of harassment are encouraged to take, and will be supported in taking, appropriate steps consistent with this policy to stop or prevent the harassing behaviour.

Every student and employee of Saskatchewan Polytechnic is entitled to a learning and work environment that is free of harassment and discrimination. The purpose of this policy is to express the commitment of Saskatchewan Polytechnic to a learning and work environment which is free of harassment and to ensure Saskatchewan Polytechnic meets its legal obligations under Saskatchewan and Canadian law and its ethical responsibilities as a post-secondary educational institution and an employer.

While the first goal of Saskatchewan Polytechnic is to prevent the occurrence of harassment, this policy and its related procedures establish a process for dealing with complaints of harassment should they arise.

### **POLICY**

Harassment committed by any member of, visitor to, or group within the Saskatchewan Polytechnic community is strictly prohibited and will not be tolerated.

This policy applies to all members of the Saskatchewan Polytechnic community, including but not limited to: employees, students, student groups, volunteer staff, and board members.

Clients, visitors, business/training associates, employees of Saskatchewan Polytechnic's academic partners and anyone participating in a Saskatchewan Polytechnic sponsored activity may also pursue complaints under this policy if subjected to harassment or discrimination by a member of the Saskatchewan Polytechnic community. This access to the policy to pursue complaints also applies to any

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person carrying out duties or providing services within any of Saskatchewan Polytechnic's facilities or programs, including contractors and their employees when they are engaged in activities related to the completion of the terms of their contract with Saskatchewan Polytechnic, and to members of the general public when they are making authorized use of Saskatchewan Polytechnic facilities.

This policy applies to both the learning and work environments.

**DEFINITIONS**

**1. Harassment**

Harassment, as defined under *the Saskatchewan Human Rights Code*, is a form of discrimination that occurs when an individual or group is subject to unwanted behaviours, remarks or communications that are based on any of 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; and create a hostile intimidating environment for working or learning.

- 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:
- 1.1. submission to, or rejection of, such conduct is implicitly or explicitly made a term of condition of an individual's employment or academic status, or
  - 1.2. 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
  - 1.3. the unwanted, sexually oriented remarks, behaviours or communications create a hostile, intimidating environment for working or learning.

Harassment, as defined under *The Saskatchewan Employment Act*, is any inappropriate conduct, comment, display, action or gesture by a person that:

- 1.4 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
- 1.5 adversely affects 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
- 1.6 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 can involve words, actions, or pictures such as:

- derogatory jokes, comments, or teasing,
- insults, taunting or slurs about race, colour, disability, sex, or sexual orientation,
- verbal abuse such as continued name calling, swearing or yelling,
- display or circulation of derogatory materials, pictures, or objects that demean the recipient,
- verbal or physical intimidation or threats,
- practical jokes causing awkwardness or embarrassment.

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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 Saskatchewan Employment Act* applies to employees under this policy, with appropriate modification, this definition of harassment will also apply to complaints of harassment by and against students.

For the purposes of this policy, harassment in the work and learning environments includes, but is not limited to, harassment:

- at any campus or facility operated by Saskatchewan Polytechnic;
- at Saskatchewan Polytechnic-related functions including extra-curricular activities;
- in the course of learning or work-related functions outside of Saskatchewan Polytechnic;
- at learning or work-related conferences or training sessions;
- during learning or work-related travel;
- during learning or work-related use of the telephone or computer, or,
- during the use of social networking sites.

## 2. Natural Justice and Due Process

The principles of natural justice and due process shall be adhered to by anyone who becomes involved in any aspect of the process set out to deal with harassment. This means that all parties to the formal harassment complaint, including the complainant, respondent, and witnesses, will be given the opportunity to fully explain what happened from their perspective, to have their explanations and concerns fully considered, and to challenge any evidence that is being or has been considered.

## 3. Informal Resolution

An informal resolution is any resolution to a complaint of harassment which achieves a remedy consistent with the requirements of this policy and its related procedures, but does not make use of formal disciplinary resolution procedures. Such resolutions are achieved by involving the relevant parties and through techniques including, but not limited to, coaching, counselling, education, mediation, facilitation or management intervention.

## 4. Formal Resolution

A formal resolution is any resolution to a complaint of harassment which makes use of investigative and disciplinary processes set out in the procedures to this policy.

## Other Legal Rights

Nothing in this policy prevents or discourages staff or faculty from referring a harassment complaint to the Occupational Health and Safety Division under *The Saskatchewan Employment Act* and any amendments thereto. *The Saskatchewan Employment Act* contains a definition of harassment for proceedings under that Act.

Nothing in this policy prevents or discourages anyone from filing a complaint of harassment with the Saskatchewan Human Rights Commission under *The Saskatchewan Human Rights Code*, and any amendments thereto.

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This policy is not intended to affect any other legal rights members of the Saskatchewan Polytechnic community may have related to harassment.

## **PROCEDURES**

Saskatchewan Polytechnic will take timely and appropriate action to stop harassment when it occurs. Saskatchewan Polytechnic will make every reasonable practicable effort to ensure that no student or employee, or other person entitled to access this policy, is subjected to harassment, and will take corrective action respecting any incidents of harassment that occur.

Retaliation or reprisals against a person or persons making a complaint of harassment or against witnesses to a complaint of harassment are similarly prohibited.

Disciplinary action may be taken against any member of the Saskatchewan Polytechnic community who makes an allegation of harassment in bad faith.

When appropriate, Saskatchewan Polytechnic will implement informal resolutions to complaints of harassment.

When appropriate, Saskatchewan Polytechnic will implement formal resolutions including disciplinary action to deal with individuals who engage in harassing behaviours.

Saskatchewan Polytechnic will educate members of the Saskatchewan Polytechnic community to the benefits of a learning and work environment free of harassment, to their role in the creation and maintenance of such an environment, and to their rights and obligations under this policy.

Saskatchewan Polytechnic provides both the complainant and respondent with an opportunity to appeal the investigator's decision following a harassment investigation.

### **1. Definitions**

#### **1.1 Associate Vice-President**

For the purposes of these procedures, associate vice-president means either the associate vice-president, human resources or the associate vice-president, student services. See article 2.7.

#### **1.2 Complainant**

Any person(s) or group(s), including Saskatchewan Polytechnic, who pursuant to this policy alleges they have been subjected to harassment or who alleges another member of the Saskatchewan Polytechnic community is being subjected to harassment.

#### **1.3 Day or Days**

For the purpose of these procedures, day or days means Monday through Friday but does not include a day when Saskatchewan Polytechnic is closed. Any references to month or year refer to the calendar period.

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- 1.4 Respondent  
Any person(s) or group(s), including Saskatchewan Polytechnic, against whom an allegation of harassment has been made pursuant to this policy.
- 1.5 Work or Study Environment Review  
A review, initiated by the appropriate vice-president, of the work or study environment within a department, unit, or program.

**2. Responsibilities**

2.1 While this policy recognizes that all members of the Saskatchewan Polytechnic community share responsibility for achieving and maintaining a work and study environment free of harassment, it is imperative that accountability for the accomplishment of certain key responsibilities be assigned.

2.2 Responsibilities of Saskatchewan Polytechnic

Saskatchewan Polytechnic, through its board of directors and president, is responsible for:

- 2.2.1 Ensuring a policy and procedures are in place which reflect Saskatchewan Polytechnic's desire to create and maintain work and study environments free of harassment.
- 2.2.2 Ensuring the policy and procedures allow for the resolution of allegations of harassment in a timely and effective way while reflecting the principles of natural justice and providing due process for complainants and respondents.
- 2.2.3 Upholding appropriate disciplinary measures when imposed, regardless of the authority or seniority of the respondent.
- 2.2.4 Ensuring reasonable efforts are taken to educate the Saskatchewan Polytechnic community about this policy and the right to pursue complaints under this policy if subjected to harassment by a member of the Saskatchewan Polytechnic community.

2.3 Responsibilities of Senior Managers and Supervisory Personnel

Within their portfolios, senior managers and supervisory personnel bear a special administrative responsibility for creating and maintaining work and study environments free of harassment.

In practice this administrative responsibility includes:

- 2.3.1 Modelling inclusive and respectful behaviours in their interactions with others.
- 2.3.2 Informing themselves and the staff, students, and instructors for whom they are responsible of the provisions of this policy and procedures and supporting awareness about harassment in general.
- 2.3.3 Ensuring, within their portfolio, that due process is maintained when dealing with staff, students, instructors, or other members of the Saskatchewan Polytechnic community who are involved with the resolution of complaints of harassment.

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- 2.3.4 Promoting and supporting the educational efforts of Saskatchewan Polytechnic to inform its community about harassment.
- 2.3.5 Seeking resolutions to complaints of harassment within their portfolios and seeking the advice of the harassment consultant when appropriate.
- 2.3.6 Ensuring prompt relief from harassment within their portfolios.
- 2.3.7 Ensuring appropriate disciplinary measures are imposed when required, in consultation with the associate vice-president.

2.4 Responsibilities of Harassment Consultant

2.4.1 The harassment consultant is provided to assist members of the Saskatchewan Polytechnic community in the creation of work and study environments free from harassment, including the provision of assistance in resolving complaints.

2.4.2 Specifically the responsibilities of the harassment consultant include:

- a) Providing confidential advice and assistance respecting this policy and procedures to complainants, respondents, senior managers and supervisory personnel, employees, students, and other members of the Saskatchewan Polytechnic community
- b) Developing and delivering educational programming aimed at preventing harassment or informing the Saskatchewan Polytechnic community of the provisions of this policy and procedures.
- c) Providing guidance on what constitutes a healthy work or study environment.
- d) Providing initial screening of harassment complaints and utilizing informal resolution procedures where appropriate.
- e) Referring those complaints which do not meet the threshold of harassment to supervisors, program heads, Student Services or Human Resources where additional follow-up is needed.
- f) For bona fide harassment complaints, providing procedural assistance to complainants in the preparation of written complaints to the associate vice-president requesting the implementation of formal resolution procedures.
- g) Submitting an annual report to the associate vice-president regarding the number of complaints received under this policy, the general nature of those complaints, and the type of resolution procedures employed to resolve those complaints. The associate vice-president shall provide an annual report to the board of directors, through senior management council.

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- h) Providing advice and assistance to a vice-president who is planning or conducting a work or study environment review.
- i) Within the limits of confidentiality and privacy law, coordinating their activities with others who may be attempting to improve a work or study environment including staff of Human Resources and Student Services.

2.5 Responsibilities of Employees and Students

All members of the Saskatchewan Polytechnic community, including employees and students, have a crucial role to play in the creation of work and study environments which are free from harassment. The responsibilities of employees and students include:

- 2.5.1 Modelling inclusive and respectful behaviour in their interactions with others.
- 2.5.2 Familiarizing themselves with the Harassment Policy and Procedures.
- 2.5.3 Assisting others who may be subjected to harassment in obtaining the advice and assistance they require.
- 2.5.4 Reporting harassing behaviour to senior managers or supervisory personnel.

2.6 Responsibilities of the Saskatchewan Polytechnic Harassment Prevention Committee

2.6.1 The Saskatchewan Polytechnic harassment prevention committee is a broadly representative committee that advises the associate vice-president, human resources and associate vice-president, student services on matters related to harassment. The committee is chaired in rotation by the associate vice-president, human resources and the associate vice-president, student services.

2.6.2 Specifically the committee is responsible for:

- a) Reviewing and recommending revisions to this policy and procedures.
- b) Identifying emerging issues related to the creation and maintenance of work and study environments free of harassment at Saskatchewan Polytechnic.
- c) Approving membership on a list of investigators who may be appointed to investigate formal complaints received by the associate vice-president.
- d) Approving membership on a list of mediators who may be appointed to facilitate resolution of formal complaints received by the associate vice-president.
- e) Assisting in the determination of training needs related to harassment.
- f) Ensuring the development and implementation of a Saskatchewan Polytechnic-wide communication strategy respecting harassment.

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## 2.7 Responsibilities of the Associate Vice-President

- 2.7.1. The associate vice-president is responsible for receiving written complaints requesting formal resolution of allegations of harassment in accordance with the following formulation:
- a) Written complaints in which neither the complainant nor the respondent are students will be received by the associate vice-president, human resources who shall be responsible for implementing the procedures set out in article 5.
  - b) Written complaints in which both the complainant and the respondent are students will be received by the associate vice-president, student services who shall be responsible for implementing the procedures set out in article 5.
  - c) Written complaints in which one of the complainants or the respondent is a student will be received by the associate vice-president, human resources who shall be responsible for implementing the procedures set out in article 5 in consultation with the associate vice-president, student services.
  - d) The written complaint may be supplemented by a verbal interview with the applicable associate vice-president at the request of the complainant.
- 2.7.2. The associate vice-president may, in order to ensure the creation and maintenance of work and study environments free of harassment, initiate an investigation without a written complaint.
- 2.7.3. The associate vice-president may recommend to a vice-president that a work or study environment review should be conducted within a department, unit or program in that vice-president's portfolio.
- 2.7.4. In the event that the associate vice-president is not able to perform the responsibilities of this policy because of a conflict of interest or other reason, the responsibilities will be performed by the provost & vice-president, academic, or the CFO & vice-president, administrative services.
- 2.7.5 Maintaining an updated list of qualified investigators.

## 3. Resolution Procedures

### 3.1 General Procedures & Timelines

- 3.1.1 In order to maximize opportunities for resolution, any member of the Saskatchewan Polytechnic community who believes he or she has been subjected to harassment, or who believes another member of the Saskatchewan Polytechnic community is being subjected to harassment, should bring his or her concerns to the attention of the harassment consultant, a senior manager, a supervisor, a human resource consultant, a union representative, an occupational health and safety representative, or other trusted member of the Saskatchewan Polytechnic community as soon as possible after

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becoming aware that harassment may have occurred. (For further guidance, see article 4.0.)

- 3.1.2 Any member of the Saskatchewan Polytechnic community may seek confidential advice and assistance respecting the resolution of complaints of harassment from the harassment consultant.
- 3.1.3 Requests for formal resolution must be received by the associate vice-president within six months of the date the alleged harassment became known or ought reasonably to have become known to the complainant. Where circumstances reasonably warrant, the associate vice-president may waive this deadline.
- 3.1.4 Complainants should note that *The Saskatchewan Human Rights Code* has a one-year limitation on the filing of complaints under that statute, subject to the discretion of the Chief Commissioner.

### 3.2 Confidentiality

- 3.2.1 Saskatchewan Polytechnic will make every effort to ensure that a complaint made pursuant to this policy is kept in confidence and will not disclose the name of a complainant or an alleged harasser or the circumstances related to a complaint to any person except as necessary to investigate, to respond to any legal and/or administrative proceedings arising under this policy, to take corrective action with respect to the complaint, or where such disclosure is required by law. Complainants and respondents will be cautioned to maintain confidentiality.
- 3.2.2 When discipline is imposed, details shall be restricted to those persons who have a need to know about the case including the respondent's supervisor and the appropriate senior manager.

### 3.3 Communication

- 3.3.1 All communications with complainants or respondents under these procedures shall be in writing, shall be marked "Confidential; to be opened by addressee only", and shall be sent by courier, with signature required, to the last residential address registered with Saskatchewan Polytechnic or delivered in person by a Saskatchewan Polytechnic human resource employee, with signature required. If the complainant or respondent is a student who is taking classes or field training off campus, correspondence will be sent by courier or delivered in person by a Saskatchewan Polytechnic human resource employee, with signature required, to the off campus site.
- 3.3.2 All communications with persons other than complainants or respondents shall be marked "Confidential; to be opened by addressee only" and may be sent to the person's residential address or Saskatchewan Polytechnic address, whichever is appropriate.

## 4. Informal Resolution Procedures

### 4.1 Benefits of Informal Resolutions

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4.1.1 Complainants and respondents are urged to utilize informal resolution procedures when appropriate. Such procedures bring about timely resolution and relief, ensure the complainant and respondent remain in control of the resolution, bring about results acceptable to both the respondent and the complainant, and allow complainants and respondents to find closure.

#### 4.2 Implementing Informal Resolutions

4.2.1 Whenever possible, complainants should implement informal resolutions including bringing conduct which appears to violate this policy to the attention of the respondent and letting him or her know the conduct is unwelcome or seeking the assistance of the person responsible for supervising or overseeing the respondent in letting the respondent know the conduct is unwelcome.

4.2.2 Complainants and others who become aware of harassment including senior managers, supervisors, human resources consultants, union representatives, occupational health and safety representatives, or other trusted members the Saskatchewan Polytechnic community are encouraged to seek the assistance of the harassment consultant for assistance in implementing informal resolutions. The harassment consultant will offer advice as to how a complaint might be informally resolved, coach a complainant such that he or she can effectively implement an informal resolution, and otherwise assist a complainant in implementing an informal resolution.

4.2.3 Upon request, the harassment consultant will assist complainants to prepare a written complaint for submission to the associate vice-president under article 5 of these procedures.

### 5. **Formal Resolution Procedures**

#### 5.1 Submission of Complaints

5.1.1 Requests for formal resolution (complaints) shall be made in writing and forwarded to the associate vice-president.

5.1.2 Complaints shall include a description of the acts or omissions which are alleged to be harassing, identify those responsible for the acts or omissions, contain a description of any efforts undertaken to resolve the matter through informal resolution procedures and shall be signed by the complainant.

5.1.3 Any member of the Saskatchewan Polytechnic community who believes he or she has been subjected to harassment as defined in this policy may submit a complaint and in so doing will become the complainant.

5.1.4 Any member of the Saskatchewan Polytechnic community who believes he or she has clear evidence of harassment as defined in this policy for which there is no specific complainant or no complainant willing to submit a complaint may him or herself submit a complaint and in so doing will become the complainant.

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## 5.2 Receipt of a Complaint

- 5.2.1 Complaints must be received by the associate vice-president within six months of the date the alleged harassment became known or ought reasonably to have become known to the complainant. Where circumstances reasonably warrant, the associate vice-president may waive this clause.
- 5.2.2 The written complaint may be supplemented by a verbal interview with the applicable associate vice-president at the request of the complainant.
- 5.2.3 The associate vice-president shall, within five days of receiving a complaint, determine whether the acts or omissions described in the complaint, if substantiated, could constitute harassment as defined in this policy.
- a) Should the associate vice-president determine the alleged acts or omissions described in the complaint would not constitute harassment, the complaint shall be dismissed. The associate vice-president shall notify the complainant of this decision in writing, along with recommendations.
  - b) Should the associate vice-president determine the alleged acts or omissions described in the complaint could, if substantiated, constitute harassment, she or he shall send notice of the complaint to the respondent within twenty days of receiving the complaint, including a copy of the complaint, a copy of this policy and a list of sources of advice and support. At the same time, the associate vice-president shall notify the complainant of his or her acceptance of the complaint
  - c) The associate vice-president may, on receipt of a written complaint, decide that the complaint would be best resolved through informal resolution procedures and request the complainant and the respondent seek resolution through mediation. He or she shall notify the complainant of this decision in writing, with an offer to meet to provide his or her reasoning for this decision.
  - d) The associate vice-president may, on receipt of a written complaint, authorize an investigation of the complaint (as per article 5.3).
- 5.2.4 The complainant(s) may still exercise their legal rights as described on pages 3 and 4 of the policy.

## 5.3 Investigations

- 5.3.1 If the associate vice-president authorizes an investigation of the complaint, he or she shall, within ten days, appoint a person to carry out an investigation to be completed within a reasonable period of time. Persons appointed to carry out investigations shall be selected from a list of investigators approved by the Saskatchewan Polytechnic harassment prevention committee.

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- 5.3.2 Investigations shall be conducted in accordance with the Protocol for Investigations, see article 8.
- 5.3.3 Upon completion of the investigation, the investigator shall submit a written report to the associate vice-president. The report shall include an outline of the process used to collect evidence, a description of the evidence gathered, a listing of the facts relevant to the complaint as determined on the balance of probabilities, and determination as to whether or not the complaint of harassment is substantiated.
- 5.3.4 The associate vice-president shall provide a copy of the investigator's report to both the complainant and respondent within three days of receiving the report.
- 5.3.5 In the event the complaint is substantiated, the associate vice-president, in consultation with the appropriate senior manager, will decide within a reasonable period of time what actions Saskatchewan Polytechnic will take to resolve the complaint.

5.4 Discipline

- 5.4.1 Discipline will be administered in accordance with the disciplinary clauses of the various collective agreements, if applicable, and in the case of students, the Student Conduct policy.
- 5.4.2 Discipline of employees of Saskatchewan Polytechnic may include one or more of the following:
  - a) reprimand
  - b) suspension without pay
  - c) dismissal
- 5.4.3 Discipline of students may include one or more of the following:
  - a) reprimand
  - b) probation
  - c) suspension
  - d) expulsion

5.5 Effect of Procedures in Alternative Forums

- 5.5.1 The associate vice-president may suspend or terminate an investigation when the acts or omissions described in the complaint become the subject of another investigation or other proceedings beyond the authority of the board of directors and shall provide written reasons for this action to the complainant and the respondent.

5.6 Withdrawal of Complaint

- 5.6.1 The complainant may request the withdrawal of the complaint at any time prior to the receipt of the investigation report through the submission of a written request to the associate vice-president. The associate vice-president will determine whether the

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complaint should continue and inform the complainant and respondent of his or her decision in writing.

## 5.7 Mediation and other Dispute Resolution Procedures

5.7.1 At any time during formal resolution processes, mediation is an option. If the associate vice-president requires, under clause 5.2.3 or where both the parties desire that resolution be sought through mediation, he or she shall, within 10 days, appoint a person to facilitate such a resolution. Persons appointed to facilitate such resolutions shall be chosen from a list of mediators approved by the Saskatchewan Polytechnic harassment prevention committee on an annual basis.

5.7.2 If a resolution of the complaint is achieved, the complainant and respondent shall notify the associate vice-president in writing and no further action on the complaint will be taken. If no resolution is achieved, the associate vice-president shall be so advised by the facilitator. In such cases, the associate vice-president will authorize an investigation or dismiss the complaint.

5.7.3 Discussions between the complainant, the respondent, and the facilitator under article 5.3 are confidential and cannot be used in any other proceedings.

## 5.8 Extension of Deadlines

The associate vice-president may extend the deadlines under article 5, and shall advise the complainant and respondent in writing of such extensions.

## 5.9 Delegation

The associate vice president may delegate all or some of his or her responsibilities under article 5.

## 5.10 Right to Accompaniment

The complainant and the respondent may be accompanied during any stage of the formal resolution procedures by another person. An employee has the right to request the assistance of an occupational health officer to resolve a complaint of harassment.

## 6. **Work or Study Environment Review**

A vice-president may authorize a work or study environment review of a department, unit, or program within the vice-president's portfolio which is affected by multiple complaints of harassment or other indicators of an unhealthy work or study environment including, but not limited to, high turnover rates amongst employees, high withdrawal rates amongst students, high absenteeism rates, heavy utilization of leaves for medical reasons, or high levels of grievances and other forms of conflict.

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## 6.1 Purpose

The purpose of a work or study environment review is to ensure the creation and maintenance of work and study environment free of harassment, to improve the work or study environment, and to facilitate ongoing productivity, satisfaction and engagement.

## 6.2 Conduct of Review

- 6.2.1 The vice-president is encouraged to consult with Human Resources, including the harassment consultant, and /or Student Services, when planning a work or study environment review.
- 6.2.2 The vice-president shall meet with employees and/or students to inform them of his or her decision to conduct a review of the work or study environment.
- 6.2.3 The vice-president may conduct the review or may appoint another person to conduct the review.
- 6.2.4 The review shall provide every person who works or studies in the environment with the opportunity to participate in a confidential interview.
- 6.2.5 Any statements provided during a review will be confidential and shall not be used in any other proceedings without the written consent of the person who provided the statement.

## 6.3 Report

- 6.3.1 The person who conducts the review will prepare a written report which protects the confidentiality of statements provided during the review and contains recommendations consistent with the purposes of the review.
- 6.3.2 Having regard for confidentiality, the vice-president shall discuss the report with the unit, department, or program and provide the unit, department, or program the opportunity to respond to the recommendations and make other recommendations.
- 6.3.3 The vice-president shall determine which, if any, of the recommendations shall be implemented, inform the unit, department, or program of his or her decisions, and ensure their implementation.

## 7. **Appeal Process**

- 7.1 Either party may send a written appeal request to the president or designate within 10 working days of receipt of an investigation decision.
- 7.2 The criteria for submission of an appeal is based upon:
  - a) material evidence not reasonably available prior to the time of the decision
  - b) due process not being followed

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- 7.3 Within 15 working days of receiving the appeal request, the president or designate will select an appeal 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 school or division of either the complainant or respondent.
- 7.4 The appeal 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 president or designate.
- 7.5 The president or designate 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 and the appropriate associate vice-president(s).
- 7.6 No further appeal may be made under this policy.

## 8. Protocol for Investigations

This protocol sets out guidelines for the conduct of investigations initiated by an associate vice-president under clause 5.3 of the Saskatchewan Polytechnic Harassment procedures. A copy of this protocol shall be provided to an investigator appointed under the authority of that clause.

### 8.1 Timelines

Investigations of complaints must be completed in a timely manner. Under most circumstances investigations must be completed within 20 days. (See clause 1.3 of the Harassment procedures for a definition of days). The associate vice president may extend this time period where circumstances warrant.

### 8.2 Investigator Neutrality

Saskatchewan Polytechnic expects investigators to act in a neutral and objective manner throughout the course of an investigation.

An investigator shall excuse him or herself from an investigation if it becomes apparent that a conflict of interest may impair his or her ability to be neutral or to appear to be neutral.

Any concern voiced by the complainant or respondent respecting a possible conflict of interest must be brought to the attention of the associate vice-president who shall decide whether the investigator should continue.

The following are some guidelines as to when an investigator should remove her or himself from an investigation or discuss the potential conflict of interest with the associate vice-president:

- a) Where the investigator has a personal or professional relationship with the complainant or respondent.
- b) Where the investigator has dealt with either the complainant or respondent as principal parties in another complaint investigated by the investigator.
- c) Where the investigator has personal knowledge of the complaint.

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- d) Where the investigator is aware of a personal bias or view which differs from the objectives of the Saskatchewan Polytechnic Harassment policy.

**8.3 Procedural Fairness**

It is the responsibility of investigators to ensure procedural fairness and the principles of natural justice govern the conduct of their investigations.

Specifically the investigator shall:

- a) Ensure the complainant and respondent know the substance of each other's cases.
- b) Ensure the complainant and respondent are given full opportunity to respond to each other's cases.
- c) Ensure the respondent is made aware of, and allowed to respond fully to, any new allegations or information which arises in the course of the investigation.
- d) Treat all information received in an appropriately confidential manner.
- e) Ensure the complainant and respondent are aware of their right to accompaniment and arrange interviews so as to facilitate that right.
- f) Ensure the complainant, respondent and any witnesses are provided with the opportunity to verify the accuracy of notes taken during an interview.
- g) Display neutrality in language both verbal and non-verbal.
- h) Delay findings until all the evidence has been received and assessed.
- i) Deal with the complaint in a serious manner.
- j) Refer to the allegations as allegations throughout the investigation.

**8.4. Evidence of Retaliation**

Any form of retaliation or reprisal against a complainant or a witness to a complaint is strictly prohibited by the Saskatchewan Polytechnic Harassment policy.

Investigators who determine that retaliation has occurred or may be about to occur should immediately inform the associate vice-president.

**8.5. Investigation PROCEDURES**

The investigator shall determine the procedures to follow based on the circumstances of the case and procedural fairness. This investigator's process will generally involve:

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- a) Witness statements or investigator notes of witness interviews should be signed by the witness.
- b) Investigator notes of complainant and respondent interviews should be signed by the complainant or respondent.
- c) All crucial witnesses should be interviewed in person.
- d) All important witnesses suggested by the complainant and respondent or discovered in the course of the investigation should be interviewed.
- e) Critical inquiries about the relationship of the complainant and respondent and the relationship of witnesses to the complainant and respondent should be undertaken to assist in the assessment of credibility.
- f) All important documents suggested by the complainant and the respondent or discovered in the course of the investigation should be reviewed.
- g) Proper records of the investigation should be maintained including a log of all interviews, notes of all interviews, copies of all written statements, and copies of all documents, including electronic records, reviewed in the course of the investigation. Other pieces of physical evidence should be secured and logged.
- h) Evidence that thoughtful consideration was given to both the complainant's and the respondent's version of events.
- i) Evidence the investigation was focused, i.e. that it sought answers to the questions critical to substantiating or disproving the allegations.

**8.6. Documents and Other Physical Evidence**

Physical evidence including documents relevant to the allegations should be secured in a timely way. If necessary, photographs of physical evidence should be taken and notarized as to their source.

A log of all documents and physical evidence should be maintained, including the source of the evidence and the date and time it was received.

Efforts should be made to authenticate all physical evidence and to ensure it has not been altered or tampered with in any way.

The investigator shall have in his or her records of the investigation copies of all documents reviewed and photographs or other reproductions of any other physical evidence considered, or when possible, the physical evidence itself.

**8.7. Witnesses**

Witnesses should be advised of the following before the interview:

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- a) The purpose of the interview.
- b) The authority for the investigation; i.e. the Saskatchewan Polytechnic Harassment policy.
- c) Of the witnesses' right to verify the investigator's authority through the office of the associate vice-president.
- d) Of the witnesses' protection from retribution.
- e) Of the requirement to keep details of the interview confidential.
- f) Of the investigator's responsibility to inform the associate vice-president of the findings of the investigation.
- g) Of the witnesses' right to ask for clarification of any questions the investigator may ask.
- h) That there is no expectation that witnesses will have answers to all questions put to them, and that when this is so an answer such as "I don't know" or "I don't recall" is preferable to a speculative answer.

### 8.8. Investigation Report

Upon completion of the investigation, the investigator shall submit a written report to the associate vice-president.

The investigation report provides the basis for the resolution of the complaint. It should be a document which could stand alone as a permanent record of the investigation. It should anticipate and answer the questions of the associate vice president, who must determine whether a violation of the Harassment policy has occurred and, if so, what actions, including possible disciplinary action, must be taken. It is worth remembering that should the complainant or the respondent challenge the outcomes of the investigation, the report could be subject to scrutiny by an occupational health and safety officer, special adjudicator, the human rights commission or a court.

The investigation report shall include:

- a) A description of the harassment issue;
- b) An outline of the process used to collect evidence;
- c) A description of the evidence relevant to making a determination;
- d) A listing of the facts relevant to a determination and a statement as to whether these facts are undisputed or determined on the balance of probabilities;
- e) Any relevant assessments of the credibility of the complainant , the respondent or any witnesses;

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- f) An identification of any contentious issues and the investigator's determination on the balance of probabilities of those issues;
- g) An account of how witnesses were chosen for interviews and the basis for excluding any witnesses proposed by the complainant and respondent;
- h) A review of the relevant documents reviewed in the course of the investigation; and,
- i) A copy of the log of interviews should be attached to the report, as should a copy of the log of documents and other physical evidence.

The investigation report should include the investigator's opinion as to whether the facts as determined constitute a violation of the Saskatchewan Polytechnic Harassment policy.

**RELATED POLICIES/DOCUMENTS**

- 1211 Student Conduct
- 705-G Education and Employment Equity
- 712-G Reasonable Accommodation
- 604 Violence
- 703 Code of Conduct

**APPLICABLE LEGISLATION OR REGULATIONS**

*The Saskatchewan Employment Act*  
*The Saskatchewan Human Rights Code*

**AMENDMENT HISTORY**

- 1. Original issue date: September 27, 1996
- 2. Revision dates: January 20, 2006  
April 25, 2008  
April 15, 2011
- 3. Scheduled review date: June 4, 2019

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