



Saskatchewan Cancer Agency

DIVISION: Human Resources

POLICY NUMBER: HR – 508

DEPARTMENT: Human Resources

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CATEGORY: Terms and Conditions of Employment/Employee Relations

POLICY TITLE: Respectful Workplace (Previously Harassment Policy)

Policy: The Saskatchewan Cancer Agency (SCA) supports and promotes the principle that all employees have the right to be treated fairly and deserve mutual respect and dignity. Our goal is to provide a harassment free work environment that is supportive of the productivity, the dignity and self-esteem of every employee by promoting tolerance, understanding and respect.

Harassment in the workplace shall not be tolerated. The SCA has a zero tolerance policy towards harassment in the workplace. No reported incident shall go unaddressed. All allegations of harassment shall be taken seriously and, if substantiated, shall be addressed through appropriate corrective action. The abuse of one's authority or position to intimidate, coerce or harass is forbidden.

This policy does not limit or constrain the employer's right to manage the workplace. For example, work assignments, operational reviews, performance reviews, coaching, work evaluation and disciplinary measures taken by a manager or supervisor, in good faith for valid reasons, do not constitute harassment in the workplace. These supervisory and management actions must remain respectful of the individual. This policy will not, under any circumstances, be used to impede the supervisory relationship, nor is it intended to inhibit normal social interaction in the workplace.

Application: This policy applies to all personnel employed by the Saskatchewan Cancer Agency who are entitled to any remuneration for services performed for the Agency.

Authority: *The Occupational Health and Safety Act, 1993 and Regulations, 1996*

Information: Human Resources Department

Approval: Senior Leadership Team	Date: September 29, 2009
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Definitions:

Alternate Dispute Resolution (ADR) Alternate Dispute Resolution (ADR) is a collaborative, consensual approach to resolving disputes. ADR encompasses processes that usually involve a neutral third party who assists the parties in resolving disputes. Examples of ADR processes include facilitated problem solving and mediation.

Complainant The employee(s) who makes a complaint of harassment or brings an incident of harassment to the attention of the employer.

Discrimination Discrimination includes but is not limited to, unequal treatment based on one or more of the prohibited grounds under *The Saskatchewan Human Rights Code*. Discrimination can be intentional or unintentional, direct or indirect.

Discrimination in employment is prohibited in *The Saskatchewan Human Rights Code* on the basis of race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin or receipt of public assistance.

Facilitated Problem Solving A creative process led by a third party that includes the Complainant(s) and Respondents(s) and may include a manager, HR, work group and/or the union (if applicable). The goal is to identify an acceptable resolution to the issue.

Harassment This policy endorses the definition of harassment set out in *The Occupational Health and Safety Act, 1993 (Amended May 2007)* which states that:

- (l) "harassment" means any inappropriate conduct, comment, display, action or gesture by a person:
 - (i) that either:
 - (A) is based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; or
 - (B) ... 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;

Harassment can be in the form of repeated conduct, comments, displays, actions or gestures or can be a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture that has a lasting, harmful effect on the worker.

Harassment may have the effect of creating an intimidating, hostile or offensive work environment, impacting on the employee's ability to work and learn. Harassment may or may not be intentional. The impact on the recipient and the workplace is a measure of whether or not harassment has occurred.

Examples of Behaviour that constitute harassment

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- unwelcome derogatory or degrading remarks, jokes, innuendoes, gestures or taunts that cause embarrassment or offence;
- displaying objectionable materials, graffiti, cartoons, pictures or other offensive material;
- disparaging written materials;
- unwelcome sexual flirtations, advances, propositions or inquiries and/or comments about a person's sex life;
- leering, prolonged staring and making sexually suggestive gestures;
- unwanted contact or attention (may be one time or persistent);
- deliberate, unsolicited, and unwanted physical contact, e.g. touching, punching, cornering, close body contact;
- shunning or ostracizing (refusing to converse or work with an employee);
- threats, bullying, coercion, isolation;
- actual or threatened physical assault;
- verbal abuse/assault or threats;
- malicious gestures or actions;
- stalking;
- serious abuse of authority;
- hate literature.

Examples of Behaviours that do not constitute harassment

- legitimate and constructive feedback regarding work performance;
- disciplinary measures taken by a manager in good faith for valid reasons;
- expressing opinions that are different from others, unless those opinions fall within the prohibited grounds.

Investigation A fair and impartial fact-finding process to assess whether the allegation(s) is founded, unfounded or made in bad faith.

Mediation A facilitated and voluntary process led by a trained mediator involving the Complainant(s) and Respondent(s) to help them attempt to resolve the matter. The outcome of this process is a mutual understanding and a written, signed and recorded agreement to restorative action between those involved.

Respondent The employee(s) against whom a complaint has been lodged.

Workplace For the purposes of this policy, the workplace includes, but is not limited to, the physical work site, washrooms, cafeterias, training sessions, business travel, field locations, conferences, work related social gatherings or any other place where the employee is required to be in service to the employer.

Rights, Roles & Responsibilities

Harassment is a concern for everyone and maintaining a harassment-free workplace is everyone's

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responsibility.

Complainant The complainant is responsible for reviewing the policy and documenting incident(s) of harassment. They must make their concerns known to the Respondent(s) or other appropriate person(s) (e.g. Manager, HR and/or, if appropriate, union representative) to review options for resolution. The Complainant(s) will participate in the process to resolve the situation constructively.

Employees All employees have a responsibility to create and support a workplace that is free of harassment by complying with this policy and by ensuring their behaviour meets acceptable standards. Therefore, no employee shall cause or participate in the harassment of another employee. Harassment is a serious offence and participation in such actions is subject to a range of disciplinary sanctions up to and including dismissal. Employees must bring any incident(s) of harassment or potential harassment they observe to the attention of their Manager, Human Resources or the Union (if applicable).

Every employee has a right to work in an environment with respect and dignity that is free from harassment by the manager, supervisor, co-worker, consumer of the health care services (and/or their relatives), physician or the public.

Every employee has a right to file a harassment complaint and to have their complaint acted upon in a timely fashion.

Nothing in this policy precludes the employees' ability to access their rights or provisions through the Collective Bargaining Agreement (if applicable), the Saskatchewan Human Rights Code, The Occupational Health and Safety Act, workplace violence policies, Worker's Compensation or any other legal avenues available.

Employer The Agency has a responsibility and legal obligation to ensure employees are not exposed to harassment in the workplace and for implementation of this policy.

The Agency has a responsibility to act promptly and confidentially upon complaints of harassment to ensure that complaints are dealt with in a fair and impartial manner within an expedient time frame.

Human Resources Human Resources staff are responsible for ensuring they are knowledgeable about the Respectful Workplace policy and related processes and assisting managers in determining the appropriate action to address workplace harassment. Human Resources will also provide advice and assistance to employees when approached about matters involving harassment.

Managers Managers are responsible for ensuring a harassment free workplace and adherence to this policy. This includes taking appropriate preventive or corrective action and stopping any harassment of which they are aware. A manager that ignores harassment becomes a party to the harassment. If prior knowledge is proven, and the problem is ignored, appropriate action will be

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taken by the Agency. Managers should ensure that all employees' rights are protected and should support employees in the Dispute Resolution process.

Managers and/or supervisors must promote a harassment free workplace by providing every employee with knowledge about this policy. This will ensure awareness of the different forms of harassment, procedures to follow and encouragement for Complainant(s) to come forward. Managers who receive a harassment complaint are obligated to treat all claims seriously in a confidential manner and investigate the alleged harassment immediately or refer it to a Human Resources staff member.

Respondent

Respondent(s) must be notified in the event a complaint is made against them. Respondent(s) should review the policy and work with their manager, Human Resources and/or if appropriate, union representative, to review options for resolution.

Respondents are encouraged to participate in the process in order to resolve the conflict constructively.

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PROCEDURES

Complaint Resolution Process

Union employees have a right to union representation during any of the processes outlined in this policy. Individuals outside the union may be accompanied by a person of their choice.

An employee who believes that she/he has been subject to harassment may choose from the following three courses of action.

1. Informal Resolution - Between the Complainant and Respondent

Employees are encouraged to address harassment issues by speaking directly with the Respondent(s). If the conflict can be resolved by those directly involved, it reduces the disruption in the workplace and contributes to better relationships in the future.

Some people are not aware their behaviour constitutes harassment. Often, simply informing them their behaviour is offensive is enough to end it. Complainant(s) should make known to the Respondent(s) the behaviour is objectionable and must stop.

Employees are not always comfortable approaching the Respondent(s) directly. If this is the case the Complainant(s) may proceed to either the Alternate Dispute Resolution process or Formal complaint process.

2. Alternate Dispute Resolution

If the employee is unable to approach the Respondent(s) or the discussion did not improve the situation, the Complainant(s) should discuss the problem with their manager, Human Resources and/or, if appropriate their union representative. Options for resolution will be discussed and an action plan should be developed and implemented.

The Manager, Human Resources and/or union representative can help to identify and access Alternate Dispute Resolution mechanisms that may be appropriate under the circumstances. Early problem solving mechanisms, such as mediation, are preferred processes to resolve problems at the outset (where appropriate). These restorative processes focus on conflict resolution rather than blame or punishment.

If an individual is named, the individual will be informed of the concern and be given an opportunity to respond to the concerns raised. The result may include separate informal discussions between the Manager and the Complainant(s) and the Manager and the Respondent(s) and/or subject to the agreement of the Complainant(s), a facilitated meeting utilizing a mutually acceptable facilitator, between the Complainant(s) and Respondent(s) in order to address concerns about the behaviour.

3. Formal Resolution

If the issue has not been resolved using the previous processes or the Complainant(s) does not feel comfortable approaching the Respondent(s) directly the employee may proceed with filing a written complaint. The written complaint must be sent to Human Resources as soon as possible after the incident occurred and must include the following information:

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- Name of Complainant(s)
- Date of complaint
- Phone Number of Complainant(s)
- Job Title of Complainant(s)
- Grounds for complaint as per the definition of harassment above
- Respondent(s) or person who has allegedly committed the harassment and contact information (if available)
- Details of the complaint: describe the behaviour being objected to. What was said or done? When? How often? Where? Circumstances surrounding the incident(s). Describe what has been done in response to the behaviour. Has the Respondent or another appropriate person been advised the behaviour is objectionable and must stop?
- Witnesses of alleged harassment;
- Signature of Complainant(s): by signing the complaint the employee is providing consent to have the information shared with the Respondent(s); their Manager(s), and the union if applicable. (See Appendix A)

Human Resources will notify the Respondent(s), the Manager and the Union (if applicable) of the complaint.

The Respondent(s) will be given a copy of the complaint and a copy of this policy. In the case of multiple Respondents, only details of the complaint pertaining to an individual Respondent will be provided to that Respondent.

Investigation

- Human Resources will ensure an initial assessment and/or internal investigation is conducted as the situation warrants.
- At any point during the investigation an Alternate Dispute Resolution mechanism may be utilized if appropriate under the circumstances.
- For internal investigations the Provincial Leader of Human Resources will be the designated Harassment Investigator, but he/she may appoint someone else as may be appropriate and in some cases an external investigation is required. In this case Human Resources will coordinate the appointment of the external investigator.
- The Harassment Investigator will:
 - Privately interview the complainant to obtain and document the facts.
 - Privately interview the alleged Respondent(s) to ascertain and document the facts.
 - Privately interview witnesses to ascertain observations of each situation.
 - Develop a written report within 10 working days, or as soon as possible. The report will include the following:
 - The complaint;
 - The response;

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- Relevant documents;
 - Findings of the investigation;
 - The investigators conclusion respecting each allegation/complaint as to whether the allegation/complaint was founded, unfounded or made in bad faith.
 - The investigator's report may include a recommend course of restorative action, but will not provide recommendations regarding disciplinary action.
- Human Resources will distribute the investigation report to the Complainant(s), Respondent(s), and Manager.
 - Within five (5) working days of receiving the investigation report, either the Complainant(s) or the Respondent(s) may request a review of the investigation for thoroughness. The challenge must be submitted in writing to Human Resources. A challenge must specify, in detail, what aspect of the report is seen as inadequate and why.
 - Human Resources will review the challenge to determine if the report should be reviewed or clarified or the investigation reopened.
 - If the report needs to be reviewed or clarified the investigator will review the challenge and create a response.
 - All designated investigators will be provided with training related to the investigation of harassment complaints.

Resolution

- Once the report is finalized it will be reviewed by the Manager of the Complainant(s) and Human Resources. A decision will be made as to the appropriate course of action to be taken. Any decisions will be communicated to the Complainant(s), the Respondent(s) and the union if applicable within 30 days, this period may be extended for a further 30 days upon notice to the parties involved.
- Where a harassment allegation has been substantiated, the employer shall take appropriate disciplinary action or corrective measures up to, and including, dismissal.
- Where possible, a consultative process of settlement including counselling and education components should be worked out with all persons involved.
- Where harassment is not substantiated, no disciplinary action will be taken against a worker who has made a complaint "in good faith". Good faith simply means that the employee believes, beyond a reasonable doubt, that an action of harassment has taken place, and can provide evidence to demonstrate that harassment has occurred.

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Other

Additional Information

Employees may access any of these avenues at any stage of the process:

- Manager
- Human Resources Division
- Occupational Health and Safety, Ministry of Advanced Education, Employment and Labour
- Union Representative (if applicable)
- Saskatchewan Human Rights Commission
- Employee and Family Assistance Program (1-800-663-1142)
- Police (if an assault or other crime is alleged to have occurred)

Confidentiality

The Agency will handle all complaints, including formal and informal complaints, confidentially.

The employer will not disclose the name of a complainant or an alleged harasser or the circumstances related to the complaint to any person except where disclosure is necessary for the purposes of investigating the complaint, taking corrective action with respect to the complaint or as required by law.

No one involved will discuss or share the information outside the restorative or investigative processes. Information is shared on a “need to know” basis and must not be shared further. Failure to preserve the confidentiality of information acquired during the process may result in disciplinary action, up to and including dismissal.

Harassment by A Non Employee

If an employee feels they are being harassed or have been harassed by a person who is not covered by this policy they should discuss the matter with their supervisor and/or human resources who will take immediate steps to address the issues.

Bad Faith Complaints

Complaints should be undertaken with great care because they may result in pain and damage to the Respondent’s reputation and disruptions in the workplace. Complaints made frivolously, maliciously, or without factual basis may constitute defamation, may be actionable by the Respondent, and may result in disciplinary action, up to and including dismissal.

Complaint Withdrawal

A Complainant may withdraw a complaint at any time. The employer may still be required to address the concerns raised in cases where:

- There exists a real or perceived threat to the health or safety of other employees;
- there is evidence that the Complainant(s) may have been threatened or may fear retaliation;
- failure to resolve the matter might endanger an employee;
- the complaint alleges serious abuse of power; or

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- failure to follow through on a complaint would seriously damage the reputation of the Agency.

Employee & Family Assistance Program

Employees who require assistance such as counselling are encouraged to contact the Employee and Family Assistance Program.

Retaliation

Retaliation is strictly prohibited against anyone who has reported harassment or participated in the complaint process. Any signs of retaliation should be reported immediately to your manager, Human Resources, or the union (if applicable). Retaliation will result in disciplinary action, up to and including dismissal.

Documents

No documentation shall be filed in personnel files unless either a case of harassment has been substantiated or a false claim has been proven.



1. Complainant Information.

PLEASE PRINT

Name: _____ **Date:** _____

Department: _____

Division: _____

Workplace Address: _____

Home Phone Number: _____ **Work Phone Number:** _____

Phone numbers will not be shared with the Respondent(s)

2. Grounds for Complaint - On what grounds do you believe harassment occurred (see Definition of Harassment)?

3. Respondent(s) - Person(s) who you allege committed the harassment.

4. Details of the Complaint - Please be as detailed as possible when describing the behaviour(s) you object to. Include such things as: what occurred, location, date, time, circumstances surrounding the incident, witnesses, what you have done in response to the behavior, etc. (Use additional pages if needed)

5. Witness(s) of Alleged Harassment - Please list name(s) and phone numbers.

6. Relevant Documents - Please attach copies of any documents you consider relevant.

7. Signature. By signing this complaint, you are agreeing to have a copy given to Human Resources, the Harassment Investigator, and the Respondent(s). Your complaint will be maintained in confidence; however, relevant information will be shared to the extent necessary to determine the appropriate resolution of this matter.

Signature of Complainant

Date

8. Consent to Give Copy of Complaint to Union (if applicable)

By signing below, I hereby give the Saskatchewan Cancer Agency my authorization to release a copy of this complaint and the investigation report to my union.

Signature of Complainant

Date

Note: Nothing in this policy precludes the Respondent(s) from providing a copy of the complaint against them and the investigation report to the union