



AP 450 – HARASSMENT (EMPLOYEES)

BACKGROUND

Pursuant to The Occupational Health and Safety Act, 2013, and the Occupational Health and Safety Regulations, 1996, the Division considers itself responsible to provide employees with a workplace free of harassment. Any person under the Division's direction who engages in the harassment of any employee shall be subject to disciplinary action. The Division also recognizes its duty to provide employees with education about harassment.

DEFINITION

1. Harassment

Under the Saskatchewan Employment Act, 2013, harassment in the workplace can be defined as any inappropriate conduct, comment or display 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. adversely affects the employee'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
- c. constitutes a threat to the health or safety of the employee.

2. Bullying

A situation where one or several individuals persistently over a period of time perceive themselves to be on the receiving end of negative actions from one or several persons, in a situation where the target of bullying has difficulty defending themselves against these actions.

PROCEDURES

1. Harassment is an illegal employment practice and is a violation of the law under the province's Human Rights Code and The Saskatchewan Employment Act, 2014.. As such, it is a serious offence, subject to a range of disciplinary actions up to and including termination.

The Division will make every reasonable effort to ensure that no employee is subjected to harassment.

The Division will take corrective action respecting any person under its direction who subjects any employee to harassment.

2. Harassment is not mutually acceptable social discourse or banter that may occur in the work place. However, where another employee is present, and that employee is not of the same view, and that employee makes it known that they find the social discourse/banter offensive, the other employees must refrain from that kind of behaviour in the presence of an employee who finds it, within reason, offensive.



3. Harassment does not include any reasonable action that is taken by the Division or Administrators employed or engaged by the Division relating to the management and direction of employees or the place of employment.
4. Prevention
 - 4.1. Present Employees

At the commencement of each school year, Principals shall advise school-based employees of this administrative procedure.

Central Office managers and coordinators shall advise their respective employees of this administrative procedure.
 - 4.2. New Employees

Human Resources shall advise new employees, as part of their orientation, of this administrative procedure.
 - 4.3. Posting of Procedure

A copy of this procedure shall be posted on the division website that is accessible to all employees.
5. If an employee feels they are being harassed, the following actions should be taken:
 - 5.1. The harasser should be told by the employee feeling harassed, that his/her behavior is unwelcome and asked to stop the behavior.
 - 5.2. The employee who feels harassed should keep a record of each or any incident(s) (each offensive suggestion, remark or incident, including dates, times, locations, possible witnesses, what happened, complainant's response). A record of events does not have to be maintained in order to file a complaint, but such a record can strengthen a complainant's case and help a complainant remember details over time.
 - 5.3. If, after the harasser has been asked to stop his/her behavior, the harassment continues, the problem should be reported to an appropriate individual as per Section 6.

It should be noted that a single occasion of harassment could be reported, if the nature of the incident was so significant and serious as to make it difficult for the complainant to follow the procedure outlined above.
6. Reports of harassment can be made directly to any of the following:
 - 6.1. The employee's direct supervisor,
 - 6.2. A designated Union or Association representative (if covered by a collective agreement),
 - 6.3. A member of Administrative Council (Superintendent, Deputy Director, Director).

If the report is made to a person listed above, other than the Superintendent of Human Resources, the recipient of the report shall immediately provide the Superintendent of Human Resources with the details of the incident(s) in writing (a report involving a member of Administrative Council shall be made directly to the Director). In order to protect the individuals involved and to maintain the highest level of confidentiality, individuals receiving reports of harassment shall not discuss such reports with other division staff or administrators.



7. The onus is on the employee to report instances of harassment as soon after the incident as is reasonably possible. Individuals who observe the presence of ongoing harassment in the workplace are encouraged to bring the existence of the harassment to the attention of one of the individuals listed in Section 6.
8. Every effort will be made to ensure that everything is done that is fair and reasonable in the circumstances, to protect staff against complaints or accusations made by other staff members that are trivial, frivolous or made in bad faith. Individuals that have filed a complaint that is found to be made in bad faith may be subject to disciplinary action (see Section 120).
9. Reports of harassment shall be dealt with in strict confidence; however, the complainant must understand that confidentiality must be distinguished from anonymity.
10. Reported cases of harassment shall be investigated by the Superintendent of Human Resources, or designate, in keeping with due process and the rights of the parties involved/affected. Both the complainant and the respondent may be offered assistance through the Employee and Family Assistance Program and either one may be removed from the workplace on a temporary basis while the complaint is being investigated.

The process for investigation of a complaint is as follows:

10.1. Receipt of Complaint

- 10.1.1. receive written complaint
- 10.1.2. interview complainant
- 10.1.3. make a decision to proceed (if not proceeding, a report will be prepared)

10.2. Investigation of Complaint

- 10.2.1. advise and interview respondent
- 10.2.2. interview, if necessary, other individuals
- 10.2.3. review files to determine if the respondent has a previous record of harassment or other related behavior

10.3. Resolution of Complaint

- 10.3.1. prepare a report indicating either:
 - 10.3.1.1. the action and follow up necessary, or
 - 10.3.1.2. the fact that no further follow up is necessary

The Superintendent of Human Resources, upon the completion of the investigation, shall provide a written report to the Director along with a recommendation on the action to be taken, if any, as a result of the complaint.

If harassment is found to have occurred, a letter will be placed in the respondent's file with details of the discipline imposed (See Section 11).

If no harassment has been found to have occurred, the parties to the complaint will be notified in writing.

11. At any step of the investigative procedures, the complainant or respondent may choose to be accompanied by a friend, colleague, relative, or a union representative, or association representative.



Harassment is a form of discrimination and therefore employees also have the right to file a complaint with Occupational Health and Safety or the Saskatchewan Human Rights Commission. The complainant will not be discouraged from exercising any other legal rights pursuant to any other law.

12. Following an investigation, appropriate discipline, if warranted, shall be applied in keeping with natural justice and due process. Such discipline may include verbal warning, written reprimand, transfer, suspension, and/or dismissal. The procedure for imposition of discipline shall be consistent with the provisions of any applicable collective agreement.

The complainant and the respondent shall be advised as to the disposition of the complaint.

13. If deemed to be harassment, a record of the disposition of the complaint, and a copy of the initial complaint shall be kept in the respondent's file for a period of five years, and then shall be transferred to a secured confidential file in the office of the Superintendent of Human Resources. The respondent's personnel file shall contain reference to the fact that additional information is contained in the secured confidential file.

If no harassment was found to have occurred, no record of the complaint would be kept in the respondent's file.

A confidential file of all harassment reports shall be maintained in the office of the Superintendent of Human Resources.

14. Any interference or attempt at coercion in the investigative process, by or on behalf of the complainant or respondent, shall be considered grounds for immediate disciplinary action in response to the interference or coercion.

Reference: Saskatchewan Human Rights Code, 1979
Saskatchewan Employment Act, 2013
Education Act, 1995 – Section 85
An Employers Guide for Developing a Harassment Policy, 2016, Government of Saskatchewan

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