



**Luther College at the University of Regina  
Respectful University Policy Procedures: Harassment and Discrimination Prevention  
July 1, 2018**

*Pursuant to the Luther College Respectful University Policy (the "Policy")*

**1. Overview of Processes**

Article Number	Process	Actions	Person Responsible	Timeline
2.2	<b>Consultation</b>	Coordinator will provide a confidential consultation to assess complaints and incidents, determine if they fall under the policy, and outline options for resolution.	Employees and students	As soon as possible
2.3	<b>Time limits to make a complaint</b>	Barring exceptional circumstances, to be considered under this policy, a report or complaint of an alleged incident must be received within the prescribed timelines.	Coordinator	Up to 1 year after the alleged incident took place
3	<b>Informal Resolution</b>	The Coordinator will work with the complainant and/or respondent to coach, discuss or mediate the dispute.	Coordinator	Action should take place within 15 days from initial complaint
4	<b>Formal Complaints</b>	An individual may bring forward a written signed complaint outlining the nature of the complaint and proposed outcome.	Complainant	Within 1 year
4.1.c	<b>Formal Complaints</b>	Coordinator will assess complaint and may conduct a preliminary investigation in order to determine if the complaint establishes a prima facie case. If the complaint does not meet criteria of a prima facie case, the complainant will be informed and referred to alternate services if applicable.	Coordinator	Within 5 days of receiving the complaint

4.2	<b>Formal Complaints</b>	If prima facie case is established, Respondent(s) will be informed of a formal investigation in writing.	Respondent / Coordinator	
4.3.a	<b>Formal Complaints</b>	The Respondent(s) have the option to respond to the Coordinator regarding the complaint.	Respondent	Within 10 days of being notified in writing by the Coordinator
4.4	<b>Formal Investigation</b>	The formal investigation is conducted.	Coordinator	
4.5	<b>Final Report</b>	The Final Report is prepared and distributed to those who “need to know”.	Coordinator	
5	<b>Action initiated by Luther College</b>	Luther College has the ability and responsibility to initiate or continue a formal investigation when there has been a pattern of complaints suggestive of a problem that has not been effectively addressed, or where the situation may have a serious impact on the parties and/or Luther College.	President or Director of Finance	
6	<b>Malicious Complaints</b>	Making a false statement or knowingly filing a malicious complaint may be subject to disciplinary action.	Designated Authority	

## 2. Introduction

### 2.1 Definitions

In these Procedures:

- “Designated Authority” means the designated person in authority, as the case may be (such as President, Director of Finance, Dean, Director or Manager)
- “Coordinator” means the University of Regina Respectful Workplace Coordinator
- “Investigator” means the Coordinator or an alternate investigator designated by the University of Regina, who investigates a complaint under the Policy
- “Policy” means the Luther College Respectful University Policy, as amended from time to time
- “Days” means business days
- “Weeks” means working week Monday – Friday

- Prima facie case- A legal presumption which means on the face of it or at first sight.<sup>1</sup>
- Designated Authority- a person who is in a position of authority who has the responsibility and power to adjudicate
- Natural Justice- “The principles of natural justice concern procedural fairness and ensure a fair decision is reached by an objective decision maker.”<sup>2</sup>
- Need to Know- confidential information will only be given to people who need it to do a particular job.<sup>3</sup>

## **2.2 Consultation**

An employee or student who believes that they have been subjected to harassment and/or discrimination can (and are encouraged to) bring the matter to the attention of Luther College by contacting the Coordinator, Respectful University Services at the University of Regina. If an individual raises an allegation of harassment and/or discrimination with a Luther College official, the Luther College official is required to contact the Coordinator for support, advice and expertise. All contacts will be considered confidential.

Complainants who consult with the Coordinator may choose to:

- i. Receive individual coaching and education
- ii. Ask the Coordinator to facilitate a resolution or resolve the matter informally
- iii. File a formal complaint (in writing) and request a formal investigation under the Policy
- iv. If safe to do so, take action to resolve the issue directly or address it using another Luther College procedure or;
- v. Pursue the complaint in an alternate forum (such as the Saskatchewan Human Rights Commission or Saskatchewan Ministry of Labour Relations & Workplace Safety).

## **2.3 Time Limit**

Complaints must be lodged within one year of the alleged incident. In exceptional circumstances, a complaint may be filed after one year (such determination being made by the Coordinator, in consultation with the President).

## **3. Informal Resolutions**

Every situation is unique, not only in terms of the circumstances, but also with regard to the needs and interests of those involved, their preferred style of handling conflict, the desired outcome and a myriad of other factors. There are multiple resolution options for addressing and resolving harassment and discrimination - or resolving conflict before it escalates to the level of a formal complaint. Multiple resolution options offer faculty, staff and students an opportunity to choose a course of action that meets both their and Luther College’s needs. Resolution options fall into three broad categories:

- i. Self-Resolution (Self-Managed or Assisted such as direct approach or third party support)
- ii. Informal Resolution (Options for informal resolution may include third party intervention, facilitated resolution, mediation, education, or a customized solution.)
- iii. Formal complaint process

It is advisable to make an appointment with the Coordinator to discuss these options in detail. Luther College management, faculty and staff will contact the Coordinator in the event a complaint is brought to their attention.

## **4. Making a Formal Complaint**

### **4.1 Intake and Assessment**

Where a serious and immediate threat to safety exists, Luther College has a legal duty to warn anyone at risk, which may include informing the Police. Information concerning a complaint may also be provided to appropriate Luther College officials on a need-to-know basis (e.g. situations where there are security or safety issues or cases involving repeat complaints or a pattern of related behaviour).

- a. Anonymous complaint: a person who believes they have experienced harassment or discrimination may wish to report the occurrence yet preserve their anonymity. No direct action can be taken in response to anonymous reports/complaints.
- b. A formal complaint is initiated by providing the Coordinator with a detailed written complaint, dated and signed by the Complainant, which (i) includes a clear statement of the alleged harassment or discrimination; (ii) requests an investigation; and (iii) identifies the Complainant's desired outcome.
- c. A request for investigation will not be considered and no investigation shall be undertaken in the absence of a signed, written complaint that establishes a prima facie case of discrimination or harassment.
- d. Before proceeding with the investigation of a complaint, the Coordinator, within 5 days of receiving the complaint, will assess:
  - i. whether another form of resolution has been initiated. If so, the resolution process will be followed through and brought to conclusion or abandoned prior to the initiation of a formal investigation;
  - ii. whether the complaint has been brought within the one-year time limit under the Procedures;
  - iii. whether the Complainant and Respondent are under the jurisdiction of Luther College (i.e. employees and/or students of Luther College);
  - iv. whether the allegations are within the scope of the Policy and these Procedures (i.e. alleging discrimination or discriminatory harassment);
  - v. whether the complaint establishes a prima facie case of discrimination or harassment.

- e. Where the complaint lacks sufficient detail or does not address important evidentiary points, but does tend to establish a prima facie case, the Coordinator may proceed with an investigative interview with the Complainant to supplement the information in the complaint.
- f. If the complaint does not involve an employee or student of Luther College, and only seeks redress from Luther College (e.g. alleging that Luther College itself has failed to meet its obligation to provide a safe and healthy environment free of harassment), the matter shall be referred to the President or Director of Finance of the College, who may direct an investigation and order any interim measures or relief that they deem fit. The Complainant shall be so notified, in writing.
- g. If the foregoing criteria are not met, the Complainant will be advised that the Coordinator has determined not to proceed. Recognizing that this action does not resolve the Complainant's problem, the Coordinator may be able to recommend other problem-solving options or refer the Complainant to other Luther College and/or University of Regina services or resources.
- h. Upon request, the Coordinator will provide the Complainant and the Respondent with general information and guidelines related to the form and content of a complaint or response to a complaint. If further assistance is required to prepare a complaint or a response, either party may seek such assistance from a union representative (if a member of a union), a trusted friend or colleague, or anyone else they deem appropriate.
- i. The Coordinator shall ensure that the Complainant and the Respondent have been:
  - i. provided with a copy of the Policy and these Procedures;
  - ii. advised that all those involved in a discrimination or harassment complaint are expected to maintain confidentiality, particularly within the work, learning or living unit in question, and shared professional and social circles. Any person breaching confidentiality may be subject to discipline or other appropriate action;
  - iii. advised that retaliation or the threat of retaliation or reprisal against anyone involved in the complaint process is considered to be a serious offence and may be subject to discipline or other appropriate action;
  - iv. advised that threats or any other safety concerns should be reported to the Coordinator;
  - v. informed of their right to be accompanied by a support person of their choice, including a union representative (if appropriate) or student advocate, at any stage in the proceedings they are entitled or required to attend. The role of the support person is to:
    - provide moral support, keeping in mind that the Complainant and the Respondent are responsible for expressing their own thoughts and feelings, and for full disclosure of information related to the allegations, and

- support the Investigator’s objective of conducting a full, fair and impartial investigation
- j. The support person cannot be a witness in the investigation. The Investigator may terminate or postpone the interview if the behaviour of the support person is inappropriate. Any costs associated with the attendance of a support person shall be borne by the Complainant or the Respondent, as the case may be.
  - k. A Complaint and Request for Investigation will not proceed if, in the opinion of the Coordinator, a complaint is frivolous, vexatious, malicious or retaliatory. If such a determination is made, the Complainant will be advised by the Coordinator in writing. A frivolous complaint is one that is trivial and/or without serious content. A vexatious complaint is one that is without merit and is primarily intended to vex or annoy the Respondent. A malicious complaint is a complaint made in bad faith (i.e. an intentionally false accusation or a complaint intended to harass or harm the Respondent). A retaliatory complaint is a complaint made in bad faith, solely or primarily for the purpose of “getting back at” a member of the Luther College community.
  - l. When a Complaint is determined to be frivolous, vexatious, malicious or made in bad faith or retaliatory, the appropriate Designated Authority will be advised of the Coordinator’s finding, and may institute appropriate disciplinary actions. Additionally, in such circumstances, Luther College may file a complaint pursuant to the Policy and/or other applicable policies, and the Coordinator may conclude that the Complainant has breached the Policy by bringing such a complaint.

#### **4.2 Notification**

- a. Upon completion of the intake and assessment of the complaint, the Respondent shall be notified in writing that a complaint has been lodged, provided the complaint meets the criteria set out in the preceding section. The Respondent will be provided with a copy or summary of the allegations which will identify the Complainant. The Respondent will also be provided with a copy of the Policy and these Procedures.
- b. The Coordinator shall inform the relevant Designated Authority for each party that a complaint has been filed and an investigation initiated. Where appropriate, the Coordinator will also recommend and/or discuss the need for interim measures.

#### **4.3 Response to the Notification**

- a. The Respondent shall have the right (but is not obliged) to respond in writing to the Coordinator, within 10 days of being notified. The response, if any, should acknowledge or deny the validity of the allegations in whole or in part, provide additional information, and/or propose a resolution of the complaint. A request for an extension of the response period will be granted in appropriate and reasonable circumstances.
- b. The Respondent is entitled to the same level of assistance in the process as is

available to the Complainant. The Respondent has the right to meet with the Coordinator to obtain information, guidance and assistance and discuss options. The Coordinator will not directly assist the Respondent in preparing their response; a Respondent may seek such assistance from a union representative, a trusted friend or colleague, their lawyer or anyone else they deem appropriate.

#### **4.4 Investigation**

- a. A fair, thorough and complete investigation of the complaint will be conducted pursuant to the rules of natural justice.
- b. The investigation will be carried out expeditiously.
- c. Both the Complainant and the Respondent are entitled to know the progress of the investigative process, and may contact the Investigator for that purpose at any stage of the proceedings.
- d. The Investigator shall collect, review, analyze and assess the facts with respect to the merits or veracity of the allegation(s). Facts are derived from evidence provided by the Complainant, the Respondent, as well as witnesses and other evidence, if any, and may include inferences drawn by the investigator from the evidence gathered.
- e. A typical investigation involves, but is not necessarily limited to, the information gathered in the complaint/response process, supplemented by interviews, if necessary, with the Complainant, Respondent and witnesses, and the review of any applicable documentary, physical, corroborative or contemporaneous or other evidence. An interview with the Respondent will be requested if their prepared response statement does not address important evidentiary points, is non-responsive, or lacks sufficient detail.
- f. The Investigator is solely responsible for determining the scope of the investigation, including which witnesses, if any, are to be interviewed. Witnesses may include anyone who can provide information, records or details regarding an allegation or the circumstances surrounding a Complaint. When material facts are not in dispute, interviewing witnesses may be unnecessary.
- g. There is an obligation on members of the Luther College community to cooperate in the investigation of a complaint.
- h. If a Respondent refuses to cooperate, in most cases it will be both possible and appropriate to proceed with an investigation without a statement (response) or interview of the Respondent.
- i. In the absence of exceptional circumstances, interviews will be conducted in person. If necessary, further clarification of information presented in the complaint or the response or gathered in the interview process may be obtained by telephone or an exchange of letters (including e-mail).
- j. The scope of the investigation shall be limited to the original allegations made by the Complainant. Should additional allegations arise or be raised at any time, the Complainant must file a supplementary complaint, and the notification and

response process repeated.

- k. If the matter complained of is also under investigation by the police or another external agency (such as the Saskatchewan Human Rights Commission or Saskatchewan Labour Relations & Workplace Safety), the University, at its discretion, may continue, stay or terminate the investigation or any other proceedings related to the matter.
- l. Investigations will normally be conducted by the Coordinator. As required, alternate or additional internal or external investigators may be designated. The Coordinator shall not act as the investigator where there is a conflict of interest or a reasonable apprehension of bias. In addition to the Coordinator's ethical responsibility to identify actual or potential conflicts of interest, it is the responsibility of the Complainant and the Respondent to identify a perceived apprehension of bias or conflict of interest prior to the commencement of the investigation or at the earliest opportunity. In the case of an allegation of a conflict of interest or reasonable apprehension of bias, pending a determination of the issue by the President or Director of Finance of the College or the Associate Vice-President (Human Resources) of the University of Regina, the complaint/investigation process will be suspended and when applicable an external investigator will be engaged to continue the investigation.

#### **4.5 Final Report**

- a. The role of the Investigator is to determine whether or not the Policy has been violated. The responsibility for the resolution of the complaint and/or the administration of discipline rests with the President or Director of Finance of the College, based on the findings in the final investigation report (the "Final Report"). To assist the President or Director of Finance of the College to make an informed decision, the Final Report must not only be fair and impartial, but also contain a thorough and complete analysis of the issues and evidence, and shall include a clear statement as to whether, on a balance of probabilities, the Investigator has determined that:
  - i. the allegations against the Respondent are substantiated; or
  - ii. the allegations against the Respondent are unsubstantiated; or
  - iii. behaviour on the part of the Complainant and/or the Respondent violated the Policy; or
- b. Where the Designated Authority is named as the Respondent, the person responsible for the resolution of the complaint and/or the administration of discipline will be the next most senior out-of-scope person in the Faculty, academic unit, or administrative unit with the authority to address personnel matters.
- c. Where the Respondent is a student, the determination as to the resolution of the complaint and/or the administration of discipline will be made by the Designated Authority in consultation with the Associate Vice-President (Student Affairs) for



University of Regina students, the Dean of Campion College for Campion students, and the Vice-President, Academics for First Nations University of Canada students.

- d. Upon completion of the investigation, the Investigator shall provide notification and a targeted date for completion of the Final Report to the Complainant, the Respondent and to the appropriate Designated Authority.
- e. The Final Report is strictly confidential and distribution is limited to the Complainant, the Respondent, the Designated Authority and those within Luther College who have a “need to know”.
- f. The Final Report will include the Investigator’s determination as to whether the allegations are or are not substantiated, and whether or not the Policy has been violated. The Investigator will not make specific disciplinary recommendations; however, the Final Report may provide information that is important to the determination of appropriate disciplinary action by the Designated Authority.
- g. The Final Report also serves as a guide to remedial actions necessary to correct deficiencies in the workplace; as such, the Final Report may include recommendations (corrective, preventative, educational or remedial - e.g. training and development) to correct deficiencies and/or restore the health of the work or learning environment.
- h. Any recommendations made by the Investigator are advisory only, and are not binding on Luther College, the Complainant, the Respondent, or any other person.
- i. The submission of the Final Report ends the Investigator’s role in the process unless the Designated Authority seeks clarification of the Final Report in any respect, or regarding matters arising requiring further investigation and/or supplementary reports.
- j. The role of the Coordinator will be ongoing for remedial and preventative purposes, and follow-up.

#### **4.6 Decision**

- a. Where, as a result of a finding in the Final Report, disciplinary action is warranted against an employee of Luther College, to ensure consistency with action taken in similar cases, the Designated Authority will consult with the Associate Vice-President (Human Resources) of the University of Regina before imposing discipline.
- b. The Designated Authority may consult with the Coordinator with regard to an appropriate corrective, preventative and/or remedial action plan, including targeted educational opportunities.
- c. The Complainant and/or Respondent has the right to know that corrective action has been taken as a result of the Final Report, but not the specifics of any disciplinary action.

#### **4.7 Discipline Options**

- a. Considerations in determining discipline may include, but are not limited to, such

factors as previous discipline, precedence set in similar cases, the Respondent's intent and acknowledgement of wrongdoing, the degree of aggression and physical contact which occurred, the power differential of the parties, the number of events, the impact of the harassment or discrimination on the Complainant, and the need to prevent the repetition of proved harassment, discrimination or bullying. Any disciplinary action taken by the Designated Authority is subject to the grievance-arbitration process of the applicable collective agreement in the case of employees (if applicable), or is subject to appeal to the Council Discipline Committee in the case of students.

#### **4.8 Withdrawal or Dismissal of a Formal Complaint**

- a. The Complainant may request that a formal complaint be withdrawn by delivering the request, in writing, to the Coordinator. The Respondent's Designated Authority shall be notified and, in consultation with the Coordinator, will determine whether or not the investigation is to continue and to notify the Complainant of the decision. The Respondent will be notified in writing if the complaint is withdrawn and the investigation is discontinued. Notwithstanding the withdrawal of a complaint, Luther College may have an obligation to continue the investigation.
- b. Where a complaint has been dismissed or withdrawn, the Respondent may request that the Designated Authority issue a statement that there has been no violation of Luther College policy by the Respondent. The statement must not disclose the name of the Complainant.

#### **5. Action Initiated or Continued by Luther College**

- a. In order to prevent harassment and discrimination, Luther College has the responsibility to use the Policy and these Procedures, in its own right, to initiate or continue action, including the investigative process, to determine if systemic harassment or discrimination or other problems exist in the work or learning environment. Situations where such an investigation may be required include, but are not necessarily limited to, the following:
  - i. where there is a focused pattern of enquiries, concerns and/or complaints over a period of time which suggests the existence of a problem that has not been addressed adequately, effectively or at all; or
  - ii. where there is reason to believe that a systemic problem exists in the working or learning environment which causes, contributes to or encourages harassment or discrimination.

Luther College, acting through the responsible Designated Authority, may initiate or continue an investigation even if the request for action or complaint has been withdrawn or the parties have reached a resolution through alternative resolution options. This decision is made in consultation with the Coordinator and/or the President or Director of Finance.

- b. Luther College will normally initiate or continue a complaint or an investigation

only where the alleged discrimination or harassment may have had a serious impact on the parties and/or Luther College, where the case is important to the goals of Luther College, where the Respondent has previously been the subject of substantiated complaint(s) of discrimination or harassment, or where concerns about a pattern of conduct exist.

- c. Where Luther College initiates or continues a complaint or investigation, the responsible Designated Authority becomes the notional Complainant and any rights or responsibilities assigned to them by these procedures are assumed by the individual to whom they report.

## **6. Malicious Complaints**

- a. Complaints made in good faith are not considered malicious, even if the allegations are found to be unsubstantiated.
- b. Knowingly making a false accusation is a serious violation of the Policy. Anyone who knowingly makes a false accusation of or provides false information in the course of an investigation will be reported to their Designated Authority and may be subject to disciplinary action.

## **7. Obstruction and Retaliation**

- a. No one shall suffer reprisal for bringing forward, in good faith, a complaint or concern about discrimination or harassment. Any person who engages in retaliation or threat of retaliation shall be subject to disciplinary action.
- b. Threats or other safety concerns associated with one's involvement in a complaint or investigation of harassment or discrimination should be reported immediately to the Coordinator, the Designated Authority and, where appropriate, Campus Security. If necessary, interim preventative, remedial and/or disciplinary measures may be taken.
- c. Any person whose action or inaction obstructs an investigation under these Procedures or who violates these Procedures will be subject to discipline.

## **8. Confidentiality, Records and Use of Information**

- a. All members of the Luther College community who are involved in a complaint or investigation procedure are expected to maintain confidentiality, particularly within the work, study or living area and in shared professional and social circles. Any person breaching confidentiality may be subject to discipline or other appropriate action.
- b. Subject to any exceptions provided in these procedures and to the extent required by law, all written information that is created, gathered, received or compiled pursuant to these Procedures is to be treated as strictly confidential by the Respondent, the Complainant, their representatives, witnesses, and Luther College officials. This information will only be used for the purpose of resolving the issues raised in

- connection with an informal or formal complaint and only by those persons who are involved in the resolution of those issues.
- c. Confidentiality does not necessarily mean anonymity. The rules of natural justice and procedural fairness include the fundamental principle that the Respondent must be fully informed of the allegations and the identity of the Complainant and provided with the opportunity to provide a full response.
  - d. Respondents and Complainants may discuss their case with their supervisor, legal counsel, support person(s), student advocate and/or union representative in confidence. The Coordinator or designate may discuss specific cases and their dispositions for educational purposes provided that no identifying information is disclosed.
  - e. All records and reports of inquiries, consultations, complaints and investigations collected by the Coordinator are confidential and will be securely stored in the Respectful University Services Office at the University of Regina.

## **9. Effect on Collective Agreements / Other Policies**

- a. Complainants are encouraged to use these procedures to address issues which are, or may be, harassment or discrimination. However, nothing in these procedures is intended to limit or amend the provisions of any collective agreement or restrict or discourage complainants from exercising their rights as a member of a collective bargaining unit.
- b. Any disciplinary action taken on an employee who is a member of a collective bargaining unit may be appealed through the grievance-arbitration procedures of the applicable collective agreement.
- c. Students may appeal disciplinary action to the Council Discipline Committee.

## **10. Review of Procedures**

- a. These procedures may be amended from time to time as required, and in consultation with the Occupational Health Committee.

**Effective Date:** July 1, 2018

**Review Date:** These procedures will be reviewed by the Senior Leadership Team/Luther College Board of Regents every 5 years.

### **Approval:**

Senior Leadership Team - December 19, 2017

AAC - May 1, 2018

A&A Committee - June 5, 2018

Board of Regents - June 25, 2018

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<sup>1</sup> <http://www.duhaime.org/LegalDictionary/P/PrimaFacie.aspx>

<sup>2</sup> [http://www.justice4you.org/natural%20\\_justice.php](http://www.justice4you.org/natural%20_justice.php)

<sup>3</sup> <http://www.macmillandictionary.com/dictionary/british/need-to-know>