



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

Introduction

The purpose of this policy is to support a respectful workplace and learning environment through the prevention and swift resolution of harassment and discriminatory incidents.

This policy focuses upon the rights and obligations set out in *The Saskatchewan Human Rights Code*. It also covers certain anti-harassment obligations set out in *The Occupational Health and Safety Act, 1993*. Managers, employees and students of Luther College are expected to take all complaints of harassment seriously. Managers and employees are required to contact the Coordinator, Respectful University Services at the University of Regina for support, advice and expertise in handling any incidents involving harassment and/or discrimination. Luther College will implement, maintain, promote and further develop this policy in order to promote a productive and respectful workplace and to prevent and stop harassment.

This Policy covers:

- Harassment
- Personal Harassment or Bullying
- Discrimination
- Systemic discrimination

This policy is the framework for detailed procedures (See Luther College Respectful University Policy Procedures) designed to provide Luther College employees or students with multiple options for resolving concerns or complaints of harassment and discrimination, including a complaint and investigation process, as well as an array of alternate resolution options.

This policy applies to members of Luther College, which in this policy includes:

- employees (faculty, staff and student employees),
- students,
- all people who teach and conduct research at Luther College, and
- all members of Luther College committees (including the Board of Regents).

Third parties are expected to conduct themselves in a manner consistent with this policy. Compliance with this policy shall be deemed to be an implied term of all contracts and agreements with Luther College and is a condition of access to Luther College.

Policy

Luther College is committed to creating and maintaining an environment in which members of the Luther College community can live, work and learn in a collegial climate of mutual respect, free of harassment and discrimination.

A discriminatory practice may not fall neatly into a single category, and is not required to do so. Under some circumstances, discrimination may give rise to a duty to accommodate.

Harassment and discrimination are, fundamentally, a selective denial of the basic human right to be treated with dignity and respect. Luther College will not tolerate or condone harassment or discrimination, and will take all reasonably practicable steps to ensure employees or students are not subjected to harassment and discrimination and will take all reasonable steps to prevent this type of behaviour and to stop it if it occurs.

In order to constitute harassment, conduct, comment, display, action or gesture does not need to be directed at a specific individual. For example, display of any inappropriate material such as a poster or screen-saver, or inappropriate comments, i.e. racial, religious, sexist or homophobic slurs overheard by another employee may also constitute harassment.

Third parties invited to Luther College could engage or participate in the harassment of an employee and/or student. Luther College may have limited ability to investigate or control their conduct. However, Luther College shall take reasonably practicable action to stop or reduce the risk to its employee/students of being harassed by third parties.

Allegations of harassment or discrimination arising during co-op placements, internships, or practica shall be dealt with cooperatively between Luther College and the on-site authorities according to Luther College policy and procedures governing such placements.

Harassment Based on Prohibited Grounds

Harassment Based on Prohibited Grounds refers to harassment that is prohibited in *The Occupational Health and Safety Act, 1993* and *The Saskatchewan Human Rights Code*.

This type of harassment also extends to sexual harassment. Examples of sexual harassment include, but are not limited to:

- A direct or implied threat of reprisal for refusing to comply with a sexually directed request

- Unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, attire, sex or sexual orientation
- Displaying pornographic or sexually explicit pictures or materials
- Unwelcome physical contact
- Unwelcome invitations or requests, direct or indirect, to engage in behaviour of a sexual nature
- Refusing to work with or have contact with employee/students because of their sex, gender or sexual orientation

Personal Harassment

Personal harassment is not based on any of the prohibited grounds. It is sometimes referred to as "bullying".

Personal harassment involves repeated conduct or a single, serious incident that causes a lasting harmful effect on the employee or student. Examples of personal harassment include, but are not limited to:

- Verbal or written abuse or threats
- Insulting, derogatory or degrading comments, jokes or gestures
- Personal ridicule or malicious gossip
- Unjustifiable interference with another's work or work sabotage
- Refusing to work or co-operate with others
- Interference with or vandalizing personal property

What is Not Harassment

This policy does not extend or apply to day-to-day management or supervisory decisions involving work assignments, job assessment and evaluation. Workplace inspections, implementation of appropriate dress codes and disciplinary action are not considered to be harassment even if they sometimes involved unpleasant consequences. However, managerial actions must be carried out in a manner that is reasonable and not abusive. Harassment can exist even where there is no intention to harass.

Luther College is committed to upholding fundamental human rights including freedom of association, freedom of conscience, opinion and belief and freedom of thought, inquiry, and expression. This policy is not to be interpreted, administered or applied in a way that infringes upon these freedoms or conduct between individuals that is based on mutual consent.

Examples of situations that do not constitute harassment include, but are not limited to:

- Legitimate, reasonable managerial actions to direct and control how work is done (e.g. allocating work in accordance with systems and policies)
- Feedback and performance management

- Undertaking disciplinary action for proven misconduct
- Overseeing injury and illness processes in accordance with Occupational Health and Safety and Employee/students compensation legislation
- Minor workplace issues such as disagreements and differences of opinion, matters or circumstances unrelated to employment or in the case of students' employment and/or living on campus. For example, harassment that occurs during a social gathering of employees/students that is not sponsored by Luther College is not covered. However, harassment that occurs while attending a conference, training session or athletic event where the individual(s) is representing Luther College is covered within this policy
- Physical contact necessary for the performance of the work using accepted industry standards
- Conduct which all parties agree is inoffensive or welcome

Academic Freedom

This policy shall not be interpreted, administered, or applied to infringe the academic freedom for academic staff members. When academic staff members engage in teaching, research and dissemination of knowledge, they are, therefore, entitled to the freedom to carry out such activities without arbitrary interference. The frank discussion of ideas, the pursuit and publication of research and the study and teaching of material with controversial content may not constitute harassment.

The academic staff member has the right to speak on issues beyond teaching and research through freedom of speech and the College shall recognize and respect that right. The academic staff member shall not suffer censorship or discipline by the College for exercising that right.

The College shall not be held accountable for nor be required to defend comments made by an academic staff member, whether such comments are made in the context of academic freedom or freedom of speech. The College also has the right to present its own position with respect to such comments.

Roles and Responsibilities

Luther College's Responsibilities

The Occupational Health and Safety Act, 1993 mandates that every employer has a general legal obligation to ensure, as much as reasonably practicable, that workers are not exposed to harassment with respect to any matter or circumstance arising out of employment.

This duty extends to:

- incidents that occur at Luther College or during work hours
- conduct perpetrated by another employee or student (i.e. co-worker, fellow student or supervisor) or the employer

- incidents that occur outside of the usual Luther College hours that arises out of or is connected to an employee's employment, or off campus student activity such as a work-sponsored or student sponsored social event, conference or sporting event
- conduct perpetrated by someone other than an employee or student, but with whom the employee or student is required to be in contact with, including clients, the public or people from contracting businesses

In addition, Luther College will work to ensure that students not covered by *The Occupational Health and Safety Act, 1993* will not be exposed to harassment.

Luther College will:

- comply with human rights and occupational health and safety legislation to prevent harassment and discrimination and to provide a safe and healthy work, classroom, learning and research environment for the members of the Luther College community
- promote management support and leadership necessary to provide a safe and healthy work environment free of discrimination and harassment
- promote and support the implementation of Harassment and Discrimination Prevention Program(s), educational/awareness and training opportunities for faculty, staff and students
- consult the Coordinator, Respectful University Services at the University of Regina for support, advice and expertise
- coordinate and administer all aspects of the Luther College Respectful University Policy: Harassment and Discrimination Prevention, including the maintenance of appropriate records
- develop and deliver strategies for creating and sustaining a respectful environment in which to live, work and learn, including educational strategies, projects, seminars and other means of promoting and awareness and understanding of discrimination and harassment and a respectful environment
- review the Policy every five years in consultation with the Occupational Health and Safety Committee of the College and the Coordinator, Respectful University Services at the University of Regina

Administrators and Supervisors will:

- conduct themselves in a manner that promotes compliance with this policy
- provide employees in their areas of responsibilities with adequate direction, training and instruction, and encourage them to conduct themselves in a respectful manner that is consistent with this policy
- consult the Coordinator, Respectful University Services at the University of Regina for support, advice and expertise

Employees and Students will:

- conduct themselves in all activities in a manner that promotes compliance with this policy
- consult the Coordinator, Respectful University Services at the University of Regina for support, advice and expertise as appropriate

Contractors, subcontractors, suppliers and other third parties providing a service for Luther College will:

- as part of their contracts, will comply with all relevant health and safety legislation and Luther College policies, procedures and programs where directed by Luther College

The Occupational Health Committee will:

- model and promote behaviours that are consistent with this policy
- provide advice and guidance on the Luther College Respectful University policy and how it pertains to Luther College's strategic plan
- assist in ensuring that this policy is kept current and receive suggestions and recommend actions for policy/program improvements
- consult the Coordinator, Respectful University Services at the University of Regina for support, advice and expertise

The University of Regina Coordinator, Respectful University Services will:

- provide expertise and advice to all levels of management, faculty, staff and students on matters pertaining to discrimination, harassment and a respectful university
- provide consultation regarding complaints and facilitate appropriate resolutions through assistance, facilitation and complaint resolution
- investigate complaints of discrimination and/or harassment, preparing written reports and appropriate recommendations to management
- maintain records as appropriate

Consequences for Noncompliance

Violations place Luther College at significant risk and are subject to appropriate corrective administrative or academic discipline and could result in disciplinary action up to and including termination of the member's position with Luther College, or in the case of a student, a penalty as determined under the Non-Academic Misconduct Policy. Significant legal penalties may also be assessed under *The Occupational Health and Safety Act, 1993* and by the Saskatchewan Human Rights Commission.

Investigations will lead to a decision on whether harassment actually occurred and whether the complaint was made in good or bad faith.

Processes

Procedure for Handling Complaints

Prompt action and early resolution efforts initiated by the impacted employee or student can be very effective to stop inappropriate, disrespectful behaviour, reduce the risk of objectionable behaviour being repeated, or escalated to a more serious level of conflict. Employees and students may choose to handle the matter on their own, or with the support of a friend or colleague. They may choose to seek the assistance of a manager, professor, coach or other person in authority. They can also seek guidance (coaching) from the Coordinator, Respectful University Services. Employees or students are encouraged to consider informal solutions as appropriate.

Procedures related to this Policy provide employees and students with an array of alternative self-managed and assisted resolution options, up to and including the formal complaint/investigation process. Options for informal resolution may include direct approach, third party support, third party intervention, facilitated resolution, mediation, education, or a customized solution.

In the event of a formal investigation, a final report will be prepared by the Coordinator or designate and distributed to the Complainant, Respondent and appropriate Manager(s) in authority for each party.

The resolution options described in the procedures are in addition to, and not in substitution for, other internal or external options or other legal rights. This policy is not intended to discourage, prevent or preclude an individual from filing a grievance through the applicable Collective Agreement, initiating legal action (civil or criminal) or exercising any other legal rights, including:

- Filing a complaint with the Saskatchewan Human Rights Commission. See sections 10, 16, 17, 18, 27 and 31 of the *Saskatchewan Human Rights Code* regarding discriminatory practices.
- Referring a complaint to the Occupational Health and Safety Division of Saskatchewan Labour for resolution by an Occupational Health Officer. See sections 3 and 4 of *The Occupational Health and Safety Act, 1993*, and section 36 of *The Occupational Health and Safety Regulations, 1996*.

Confidentiality

Luther College will not disclose the name of a complainant or an alleged harasser or any other details tending to identify the parties, except where:

- required for the investigation and resolution of a complaint and taking corrective action (preventative, remedial and/or disciplinary); or,
- required by law; or,
- an employee or student is at risk.

Glossary

Employee: a person who receives a salary or other compensation from Luther College for full-time or part-time work or services normally performed by an employee. This includes a person currently on an employment leave.

Student: an individual enrolled in a course and/or program of study at Luther College or from another institution visiting Luther College and using Luther College equipment, facilities or resources to conduct their study.

Personal Harassment: inappropriate conduct, comment, display, action or gesture by a person that: adversely affects an employee/student's psychological or physical well-being; and, the perpetrator knows or ought to reasonably know would cause the employee/student to be humiliated or intimidated.

Discrimination: the harmful treatment of an individual or group, based on certain personal characteristics. The Saskatchewan Human Rights Code establishes which characteristics (referred to as "prohibited grounds") are covered. They are: mental or physical disability, age (18 and over), religion or religious creed, family status (being in a parent-child relationship), marital status, sex (including pregnancy and gender identity), sexual orientation, ancestry, colour, race or perceived race, nationality, place of origin, and receipt of public assistance (provincial). Discrimination does not need to be intentional to be illegal. For example, a rule or policy may be developed for good business reasons but have an unintended, significant negative effect on a certain group of employees.

Systemic Discrimination: occurs when structural barriers or widespread stereotypes and assumptions bar certain groups of people from full participation in activities covered by The Saskatchewan Human Rights Code. This generally refers to situations where the combined effect of behaviour and attitudes, rules, standards, policies and procedures that are part of the structure of an organization result in a "system" of discrimination creating or perpetuating disadvantages which excludes or affects whole groups of people because of race, gender, sexual orientation etc.

Third Parties: visitors, guests, clients, customers, suppliers, patients, volunteers, contractors, subcontractors and/or their employees and others who are on Luther College property.

Harassment Based on Prohibited Grounds: inappropriate conduct, comment, display, action or gesture by a person that: 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; and, constitutes a threat to the health or safety of the employee/student.

Sexual Harassment: conduct, comment, gesture or contact of a sexual nature that is offensive, unsolicited, or unwelcome.

Related Information

- Luther College Respectful University Policy: Harassment and Discrimination Prevention Procedures
- University of Regina Regulations Governing Discipline for Academic and Non-Academic Misconduct
- Collective Bargaining Agreements: URFA-Luther College

Effective Date: July 1, 2018

Review Date: This policy 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