

Harassment and Discrimination Prevention Policy & Procedures

1. General

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

The College will not tolerate or condone any harassment or discrimination, and will take all reasonable and practical steps to ensure that its students and employees are not subjected to harassment or discrimination.

2. Scope

This policy applies to anyone who is an employee or student of Luther College High School while engaged in duties or activities having a substantial connection to the College, on or off campus.

Third parties (including contractors, volunteers and visitors) are also 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 the College and is a condition of access to the Luther College campus and facilities. Employees or students who have been harassed by a Third Party should report the incident to the Principal, a Vice-Principal, a school counselor, or the Director of Finance.

Third parties who have been harassed by a student, employee or other person connected with Luther College should report the incident to the Principal, a Vice-Principal, a school counsellor, or the Director of Finance.

3. Definitions

Harassment: “Harassment” means any inappropriate conduct, comment, display, action or gesture by a person that is directed at another person and:

- is based on race or perceived race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability

(mental and physical), physical size or weight, age, ancestry, nationality or place of origin, receipt of public assistance, or gender identity; or

- adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a person to be humiliated or intimidated; or
- constitutes a threat to the health and safety of the person

*(Saskatchewan Employment Act;
Saskatchewan Human Rights Commission)*

This type of harassment is prohibited in *The Saskatchewan Employment Act (the Act)* and *The Saskatchewan Human Rights Code*.

It also extends to **sexual harassment**, which is conduct, comment, gesture or contact of a sexual nature that is offensive, unsolicited or unwelcome. Sexual harassment may include:

- a direct or implied threat of reprisal for refusing to comply with a sexually-oriented request;
- unwelcome remarks, jokes, innuendos, 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 behavior of a sexual nature; or
- refusing to work with or have contact with workers because of their sex, gender or sexual orientation.

(Government of Saskatchewan, Harassment Prevention Guide, 2016)

Cyber Sexual Violence/Harassment: This is any online behaviour that constitutes or leads to harm against the physical, psychological and/or emotional state of an individual or group. It includes but is not limited to sexual comments or advances; attempts to obtain a sexual act; unwanted sexual acts; sexual coercion; spreading rumours; sending damaging messages, photos or videos; impersonations; and other forms of online behaviour that damage a person's feelings, self-esteem, reputation, and/or mental health.

(University of Ottawa, Sexual Violence Support and Prevention)

Personal Harassment: This includes any inappropriate conduct, comment, display, action or gesture by a person that:

- adversely affects a student or employee's psychological or physical well-being; and
- the perpetrator knows or ought to reasonably know would cause the student or employee to be humiliated or intimidated.

Personal harassment typically involves repeated conduct or a single, serious incident that causes a lasting harmful effect on the student or employee. All incidents of inappropriate conduct should be appropriately addressed to ensure that the College remains respectful and free of harassment.

Personal harassment may include:

- 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;
- (Government of Saskatchewan, Harassment Prevention Guide, 2016)*

Bullying: This can be:

- Verbal: usually involving taunts, name-calling, put-downs, slurs, offensive gestures, incessant mocking, threats, intimidation, and laughing at someone else's expense;
- Social: excluding, ganging up, ridiculing, gossiping, spreading rumours, extortion or stealing of money and possessions;
- Physical: involving physical harm often from kicking, punching, hair pulling, pinching, and pushing;
- Sexual: involving unwanted physical contact or sexually inappropriate comments; and
- Cyber: using a computer or other technology to forward or spread hurtful messages and/or images.

(Government of Saskatchewan, Bullying Prevention)

Cyberbullying: Cyberbullying is emotional, psychological or social bullying that occurs using technology to forward or spread hurtful messages and/or images through email, texting, social media or other forms of electronic communication.

(Saskatchewan's Action Plan to Address Bullying and Cyberbullying, November 2013)

Discrimination: Discrimination is the differential treatment of a person in a negative or adverse manner, whether intentional or unintentional, because of their race or perceived race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability (mental and physical), physical size or weight, age, ancestry, nationality or place of origin, receipt of public assistance, or gender identity for which there is no *bona fide* occupational requirement. As used in human rights laws, discrimination means making a distinction between certain individuals or groups based on a prohibited ground of discrimination.

*(Canadian Human Rights Commission;
Saskatchewan Human Rights Commission)*

4. What is Not Harassment

This harassment policy does not extend or apply to day-to-day management or supervisory decisions involving work assignments, job assessment and evaluation, safety considerations, workplace inspections, implementation of appropriate dress codes and disciplinary action. These actions are not harassment, even if they sometimes involve unpleasant consequences. Managerial actions must be carried out in a manner that is reasonable and not abusive.

The policy also does not extend to harassment that arises out of circumstances unrelated to the school or employment. For example, i) harassment is not covered if it occurs during a social gathering of co-workers that is not sponsored by the employer or ii) harassment is not covered if it occurs during a gathering of students off the school property not sanctioned by the school. However, harassment that occurs while attending a conference or training session at the request of the employer is covered; and harassment that occurs at a school sanctioned event off the school property is also covered (e.g. a school sanctioned tournament outside of Luther College).

Other situations that do not constitute harassment include:

- physical contact necessary for the performance of the work using accepted industry standards;
- conduct which all parties agree is inoffensive or welcome; or
- conflict or disagreements in the workplace, where the conflict or disagreement is not based on one of the prohibited grounds.

Harassment can exist even where there is no intention to harass or offend another. Every person must take care to ensure his or her conduct is not offensive to another.

(Government of Saskatchewan, Harassment Prevention Guide, 2016)

5. Preventing Harassment and Discrimination

The College is committed to preventing harassment and discrimination in a variety of ways, including but by no means limited to:

- creating a climate of respect and maintaining an environment free of harassment and discrimination;
- informing all persons in the College of their rights and obligations;
- encouraging employees and students not to cause or participate in harassment or discriminatory behaviour;
- providing training in implementing the harassment and discrimination policy;
- acting promptly to stop substantiated harassment and discrimination brought to the attention of the College and to take steps to prevent its recurrence;
- assisting individuals to take prompt, positive and constructive action to address issues when they arise. Employees and students make a significant contribution to the prevention of harassment and discrimination by bringing their concerns to the attention of the Principal, a Vice-Principal, a school counselor, Director of Finance, teacher or other person in authority;
- protecting students and employees trying to prevent or stop harassment or discrimination including preventing reprisal against those who have made a complaint in good faith.

6. Rights and Responsibilities

Employees and students have the right to live, work and learn in an environment free from harassment and discrimination, and a corresponding responsibility not to cause or participate in harassment or discriminatory practices. They also have the right to live, work and learn in an environment free from false accusations of harassment and discrimination.

Any employee or student who initiates a claim of harassment or discrimination subsequently proven to be false may be subject to disciplinary measures and/or an investigation by the school's resource/police officer.

An employee or student who believes that he or she has been subjected to harassment or discrimination has the right to bring the matter to the attention of the College and to take action to redress harassment or discrimination, without fear of retaliation, provided the complaint is made in good faith. He or she has the right to have concerns addressed promptly, fairly and in as much confidence as is possible.

The person against whom a complaint is made has the right to know the allegations in sufficient detail to be able to respond effectively and in a timely manner. Both complainants and respondents are entitled to fair treatment and due process. Both parties are entitled to be accompanied by a support person (or persons) of their choice during the process.

This Policy shall not be interpreted, administered, or applied in such a way as to detract from the rights and obligations of the Principal, a Vice-Principal, a school counselor, Director of Finance, or others with the authority to make personnel decisions, to maintain basic safety, to make day-to-day management decisions or to take other supervisory actions affecting employees or students, including discipline, provided that the purpose of management and supervisory decisions is not to discriminate against the employee or student on the basis of a prohibited ground or does not constitute an abuse of unequal institutional power or authority. Nothing in this policy precludes the administration of Luther College from using best judgment in appointing staff and faculty who fully endorse and adhere to the College's statement of educational goals and values.

7. Employee's Duty

In accordance with Part III of the *Saskatchewan Employment Act*, all employees, including managers and supervisors employed by Luther College High School, shall refrain from causing or participating in the harassment or discrimination of another employee or student, and cooperate with any person investigating harassment and discrimination complaints.

8. Resolution

Informal Resolution:

As a school rooted in the Christian tradition, Luther College takes seriously scriptural references that promote living in community and working to

understand the neighbour rather than confront them. Passages from Romans chapter 12 reflect this mandate to resolve our differences among ourselves: “Love should be shown without pretending. . . Love each other like the members of your family. Be the best at showing honour to each other. . . if possible, to the best of your ability, live at peace with all people.” (vv. 9, 10 and 18 from the Common English Bible translation).

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 multiple other factors. In many situations, the affected employee or student simply wants the objectionable conduct to stop. Wherever possible, employees and students feeling harassed or discriminated against are encouraged to communicate promptly and directly with the other person, firmly but respectfully letting him or her know that his or her behaviour has caused offence, is unwelcome and should not be repeated. Individuals may not be aware of the impact of their behaviour and a private conversation may be all it takes to stop it. Such prompt action and early resolution can be very effective in stopping inappropriate, disrespectful behaviour, and reducing the risk of objectionable behaviour being repeated or escalated.

Initially, impacted employees or students may choose to handle the matter on their own, or with the support of a friend or co-worker. They may also choose to seek the assistance of the Principal, a Vice-Principal, a school counselor, the Director of Finance, a teacher, or other person in authority.

A person who observes harassment or discrimination also may be able to provide immediate, direct assistance by speaking up or speaking out. Where that is not reasonable or appropriate, a witness can still be supportive and helpful by letting the target of the offensive behaviour know what was seen and/or heard, and offering direct or indirect support to help address the offending behaviour. A witness may also bring the incident to the attention of the Principal, a Vice-Principal, a school counselor, the Director of Finance, teacher or other person in authority.

Any person receiving a concern or complaint or potential complaint of harassment or discrimination must consult the Principal, a Vice-Principal, or the Director of Finance before advising an employee or student about his or

her rights and/or options. Only the Principal, Vice-Principal or Director of Finance has the authority to proceed with a formal investigation as given in the Formal Resolution procedure (see below).

Given the complexity of complaints and potential complaints of harassment and discrimination as well as the laws governing such issues, the Principal, Vice-Principal or Director of Finance should consult with professional consultants and/or the school's resource officer/police about the optimal way to proceed if there is any question at all regarding the best course of action or whether a formal investigation is needed.

This policy shall not be interpreted, administered, or applied in such a way as to detract from any and all legal and confidentiality obligations of a school counselor, pastor, teacher or other person in authority.

Formal Resolution:

If informal resolution procedures are not appropriate or sufficient, a formal complaint of harassment or discrimination can be initiated. Formal resolution procedures are as follows:

- i. An employee or student who feels he or she has been harassed or discriminated against should submit a written complaint (unless precluded or too difficult due to language or other challenges in which case a scribe will be appointed to document the complainant's oral statement) and request an investigation or an alternative resolution. The document should be submitted to the Principal, a Vice-Principal, or the Director of Finance.

The Principal, a Vice-Principal, and the Director of Finance will form the Investigating Committee, and may also consult other professional advice on an as needed basis. The Principal will normally chair the Investigating Committee.

In the case that a Vice-Principal or Director of Finance is the complainant or respondent, the Principal will form an Investigating Committee of three senior administrators including, as appropriate, a Vice-Principal and the Director of Finance.

In the case that the Principal is the complainant or respondent, the Director of Finance will form an Investigating Committee of three senior administrators including as appropriate a Vice-Principal. The Director of Finance will chair this Investigating Committee.

The President will be made aware that an investigation is ongoing, but will not be privy to the details of the complaint. The President will be informed if the case becomes a public matter in which case the President will need to know sufficient detail in order to speak publicly as needed for the profile of the College.

All complaints will be fully investigated without regard to office. If possible, the written complaint should outline the events that have taken place, the times and dates if known, and the names of witnesses to the events (if any).

The Investigating Committee has the authority to consult with professional consultants and/or the school's resource officer/police at the beginning and whenever appropriate throughout the investigative process. The extent of consultation will depend on the circumstances.

- ii. When a complaint has been initiated and an investigation is appropriate, the Investigating Committee will be established promptly and act in a timely manner to investigate the allegation(s) in accordance with the principles of natural justice and procedural fairness. Normally an investigation will take no longer than two weeks.
- iii. Following the investigation, the complainant and the respondent will be informed in writing of the results of the investigation including any corrective or disciplinary action and provided with an opportunity to respond.
- iv. Corrective action may include a wide range of preventative, remedial and/or disciplinary measures, up to and including dismissal of an employee or expulsion of a student. It may also include notifying police or other government authorities if deemed necessary.
- v. If the investigation concerns an employee as respondent and the corrective action determined by the investigating committee is dismissal, the President will immediately conduct her/his own review before the employee is dismissed.

- vi. If a complainant is unsatisfied with the results of the investigation, he or she may appeal the decision to the President of Luther College within two weeks of being informed of the investigation results. If the President is involved in a complaint as either the complainant or respondent, the complainant may appeal the decision to the Chair of the Board of Regents, Luther College.
- vii. Following the two week appeal period after the Investigating Committee's ruling, the President will receive a written report from the Investigating Committee regarding the results of the case. No details will be released to the President previous to this time so as not to influence the appeal process, unless the seriousness of the offence is such that dismissal of an employee or expulsion of a student is the recommended course of action. In such a case, the President will review the situation before a dismissal or expulsion occurs. Once the President's review has been completed, the decision is final according to College processes and the complainant may appeal to other external agencies including seeking legal action. If the president's decision is deemed unsatisfactory. In cases where a student is expelled, the principal will normally report that information to the Director of Independent Schools at the Ministry of Education as requested by the Ministry of Education.
- viii. The above measures concerning formal resolution apply when the President is not the respondent. If the President is the respondent, three Regents of the Board, not including the Board Chair, will form the Investigating Committee. The Board Chair will be the final appeal with respect to College processes for a situation in which the President is the respondent. Like any student or employee, the President can also seek resolution through external authorities or legal channels.
- ix. Aside from the above procedures, an employee or student feeling harassed or discriminated against may at any time seek legal advice or counsel at his or her own expense. Nothing in this policy is intended to discourage, prevent or preclude an individual from initiating legal action (civil or criminal), or exercising any other legal rights, including: pursuing his or her rights as per the provisions of *The Saskatchewan Human Rights Code* respecting discriminatory practices and the right to file a complaint with the Saskatchewan Human Rights Commission; or pursuing his or her rights as per *The Occupational Health and Safety Act*,

including the right to request the assistance of an occupational health officer to help resolve a complaint of harassment or discrimination.

- x. The College's insurer will be informed of an incident once the investigation is complete; this is especially important in those situations where there is any possibility that the result is serious enough to involve financial compensation.

All allegations of harassment or discrimination will be taken seriously with the goal of encouraging, facilitating and maintaining a safe, wholesome, inclusive and truthful environment.

Members of the College community are strongly encouraged to use this Harassment and Discrimination Prevention Policy and Procedures to address concerns and complaints of harassment and discrimination. It is important to note, however, that these resolution options are in addition to, and not a substitution for, other legal rights.

9. Confidentiality

The College will not disclose the name of a complainant or an alleged harasser/discriminator or any other details relating to the identity of the parties, except where: a) it is required for the investigation and resolution of a complaint and taking corrective action; or b) where it is required by law; or c) where an employee(s) or student(s) is at risk.

If the complaint is dismissed, all record of the complaint will be deleted from the respondent's employee or student file.

10. Expenses incurred

Any employee or student who violates these policies by harassing another or discriminating against another may be required to obtain professional counselling at his or her own expense.

Similarly, any employee or student seeking legal advice or redress must do so at his or her own expense.

11. Review of this policy

This policy and the procedures it includes will be reviewed every five years by the President or designate.

References:

- *Saskatchewan Employment Act*
- *Canadian Human Rights Commission*
- *Regina Public School Board Administrative Procedures 406 (Employee Harassment) and 407 (Sexual Harassment)*
- *Saskatchewan Human Rights Code*
- *Saskatchewan Human Rights Commission*
- *Saskatchewan Occupational Health and Safety Regulations, 1996*
- *Government of Saskatchewan, Harassment Prevention Guide, 2016*
- *Government of Saskatchewan, Bullying Prevention (available at: <https://www.saskatchewan.ca/residents/education-and-learning/anti-bullying>)*
- *University of Ottawa, Sexual Violence Support and Prevention (available at: <https://www.uottawa.ca/sexual-violence-support-and-prevention/cybersexual-violence>)*