

# Harassment and Discrimination Policy

<b>Effective Date:</b>	<b>Approval Date:</b>	<b>Last Revision Date:</b> n/a	<b>Review Year:</b> 2024
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**Attachment:** 1

**Category:** Administrative Policy

**PURPOSE:**

To take active, conscious steps to create a positive working environment for all employees and volunteers. The Federation of Students, currently operating as the Waterloo Undergraduate Student Association, is committed to providing and maintaining a professional working environment that is based on respect for the dignity and rights of everyone in the organization.

While the Federation cannot eliminate all behavioural risks, it is the goal to provide a healthy and safe work environment that is free from discrimination, harassment, or violence.

The Federation recognizes the obligation to:

- Provide and maintain a safe and healthy workplace;
- Support and promote an environment that is free of disruptive workplace conflict and disrespectful behavior, and;
- Comply with all duties and responsibilities under the provision of the *Ontario Human Rights Code* and *Occupational Health and Safety Act* and its Regulations as may be amended from time to time.

The overall purpose of this policy is to ensure that:

- All employees understand the key terms and definitions that relate to this policy.
- All employees understand their roles and responsibilities as they relate to workplace harassment and/or discrimination.
- Educate employees to increase awareness and sensitivity in order to identify conduct that is in violation of this policy and to understand the negative impact of workplace harassment and/or discrimination.
- The Federation builds an environment where employees feel safe to disclose incidents of harassment and/or discrimination.
- To prevent workplace harassment and/or discrimination.
- To provide a process and procedure to handle complaints and disclosures.

**DEFINITIONS:**

*Workplace discrimination* – Workplace discrimination includes any distinction, exclusion, or preference based on the protected grounds in the *Ontario Human Rights Code*, which nullifies or impairs equality of opportunity in employment or equality in the terms and conditions of employment. Protected grounds of discrimination include:

- race, colour, ancestry, citizenship, ethnic origin or place of origin
- creed, religion
- age
- sex
- gender identity and gender expression
- sexual orientation

- family, marital (including same-sex partnership) status
- disability or perceived disability
- a record of offences for which a pardon has been granted under the federal Criminal
- Records Act and has not been revoked or an offence in respect of any provincial
- Enactment

*Workplace harassment* – According to the Ontario *Occupational Health and Safety Act*, workplace harassment is “engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome” or workplace sexual harassment.

*Workplace sexual harassment* –

1. Sexual harassment means,
  - a. Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
  - b. Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advance to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.
2. Sexual harassment includes conduct or comments of a sexual nature that the recipient does not welcome or that offend them. It also includes negative or inappropriate conduct or comments that are not necessarily sexual in nature, but which are directed at an individual because of gender identity, expression, sex, or gender.
3. All People can be victims or propagators of harassment.
4. Some examples of sexual harassment may include:
  - sexual advances or demands that the recipient does not welcome or want
  - threats, punishment, or denial of a benefit for refusing a sexual advance
  - offering a benefit in exchange for a sexual favour
  - leering (persistent sexual staring)
  - displaying sexually offensive material such as posters, pictures, calendars,
  - cartoons, screen savers, pornographic or erotic Web sites or other electronic material
  - distributing sexually explicit e-mail messages or attachments such as pictures or video files
  - sexually suggestive or obscene comments or gestures
  - unwelcome remarks, jokes, innuendoes, propositions or taunting about a person’s body, clothing or sex
  - demanding hugs
  - unwelcome remarks about a person’s physical appearance
  - bragging about sexual ability
  - using rude or insulting language or making comments that stereotype people.
  - asking for a date and not taking “no” for an answer
  - persistent, unwanted attention after a consensual relationship ends
  - physical contact of a sexual nature such as touching or caressing
  - unnecessary touching or patting

- sexual assault

*Discriminatory harassment* - Discriminatory harassment includes comments or conduct based on the protected grounds in the *Ontario Human Rights Code* which the recipient does not welcome or that is offensive.

1. Some examples of discriminatory harassment may include:
  - offensive comments, jokes or behaviour that disparage or ridicule a person's membership in one of the protected grounds such as race, religion, or sexual orientation
  - imitating a person's accent, speech or mannerisms
  - persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children
  - inappropriate comments or jokes about an individual's age, ability or a protected ground in the Ontario Human Rights Code.
2. Harassing comments or conduct can poison someone's working environment, making it a hostile or uncomfortable place to work, even if the person is not being directly targeted. This is commonly referred to as a poisoned working environment and it is also a form of harassment.
3. Some examples of actions that can create a poisoned work environment if they are sufficiently serious or occur repeatedly, include:
  - deliberately excluding or socially isolating another individual from the team; for example, taking coffee orders and deliberately omitting to ask the individual
  - displaying offensive or sexual materials such as posters, pictures, calendars, Web sites or screen savers
  - distributing offensive e-mail messages or attachments such as pictures or videos
  - practical jokes that embarrass or insult someone
  - jokes or insults that are offensive or discriminatory in nature

*Workplace harassment and bullying* - Workplace harassment is a health and safety issue that is covered under the *Ontario Occupational Health and Safety Act*.

1. Workplace harassment may have some or all of the following components:
  - a. it is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient's psychological or physical integrity and has a lasting harmful effect
  - b. it is hostile, abusive or inappropriate
  - c. it affects the person's dignity or psychological integrity
  - d. it results in a poisoned work environment
  - e. it may be insulting, hurtful, hostile, vindictive, cruel, or malicious in nature
  - f. it may undermine, disrupt or negatively impact one's ability to do their job
  - g. it need not be intentional or deliberate
2. In addition, behaviour that intimidates, isolates, or discriminates against the recipient may also be included.
3. Some examples of workplace harassment include:
  - verbally abusive behaviour such as yelling, insults, ridicule and name calling, including remarks, jokes or innuendoes that demean, ridicule, intimidate or offend
  - workplace pranks, vandalism, bullying and hazing
  - gossiping or spreading malicious rumours

- excluding or ignoring someone, including persistent exclusion of a particular person from work-related social gatherings
- a person with power undermining someone else's efforts by setting impossible goals with short deadlines and deliberately withholding information that would enable a person to do their job
- a supervisor/manager providing only demeaning or trivial tasks in place of normal job duties
- humiliating someone
- sabotaging someone else's work
- displaying or circulating offensive pictures or materials
- offensive or intimidating phone calls or e-mails
- making false allegations about someone in memos or other work-related communications

*Respondent* – An individual in which a complaint is filed against.

*Complainant* – An individual alleging an incident of workplace harassment or discrimination.

**SCOPE & EXEMPTIONS:**

1. This policy applies to all employees, board members, officers, and volunteers. It applies in any location in which an employee is engaged in work-related activities. This includes, but is not limited to:
  - a. The workplace
  - b. During work-related travel
  - c. At restaurants, hotels, or meeting facilities being used for business purposes
  - d. In company-owned or leased facilities
  - e. In all company owned residences
  - f. During telephone, emails, or other work communications
  - g. At any work-related social event, whether or not it is company sponsored
2. This policy applies to situation in which you are discriminated or harassed in the workplace from individuals who are not employees of the organization such as students, suppliers, and members of the public although the available remedies may be constrained by the situation.
3. The Ontario *Occupational Health and Safety Act* states that: A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment
  - a. Workplace harassment should not be confused with legitimate, reasonable management actions that are part of normal work function, including:
    - Performance measures or targets established to meet service delivery and/or funding obligations
    - Measures to correct performance issues such as placing someone on a performance improvement plan
    - Imposing discipline for workplace infractions
    - Requesting medical documents in support of an absence from work as a part of the accommodations process
  - b. Workplace harassment also does not include normal workplace conflict that may occur between individuals or differences of opinion between coworkers.

4. This policy is not to investigate anonymous complaints unless there are extenuating circumstances.

**POLICY COMMUNICATION:**

1. All employees will be provided training on this policy and on WUSA's workplace harassment and violence program.
2. Supervisors and managers will be provided training on how to recognize workplace harassment and how to handle a complaint of workplace harassment.
3. Any individual internal to the Federation who may conduct workplace harassment investigations will be provided training on how to investigate appropriately, including the confidentiality requirements of this policy.

**POLICY:**

1. It is the mutual responsibility of the Federation and all employees to ensure that we create and maintain an anti-discriminatory, anti-harassment, and anti-racism-based workplace.
2. Employees and volunteers must be mindful of the test for harassment:
  - a. It does not matter whether you intended to offend someone. The test of harassment is whether you knew or *should have known* that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through his or her conduct or body language that the behaviour is unwelcome, in which case you must immediately stop that behaviour
  - b. Although it is commonly the case, the harasser does not necessarily have to have power or authority over the recipient. Harassment can occur from co-worker to co-worker, supervisor to employee and employee to supervisor.
3. The Federation of Students will do its part by not tolerating or condoning workplace discrimination and/or workplace harassment.
  - a. This includes ensuring everyone in our organization is aware of what behavior is and is not appropriate, investigating complaints, and imposing suitable corrective measures and re-training
4. The Federation is committed to creating a productive and respectful workplace by:
  - a. Informing employees of their rights and responsibilities
  - b. Providing ongoing training and support regarding the implementation and maintenance of this policy
  - c. Establishing a safe process for reporting, investigating, documenting, and debriefing incidents subject to this policy
  - d. Ensuring that an investigation appropriate in the circumstances is conducted when it becomes aware of an incident of workplace harassment or receives a complaint of workplace harassment
  - e. Promptly responding to all concerns of discrimination and/or harassment and not condoning or permitting any behaviour contrary to this policy
  - f. Imposing appropriate corrective action for any substantiated complaint regardless of the status of the respondent
  - g. Protecting employees from reprisal for pursuing their rights under this policy and during its process
  - h. Conducting regular review of the effectiveness of the policy and the procedure

5. Duties of supervisors and managers
  - a. Supervisors and managers are expected to assist in creating an anti-discriminatory and anti-harassment-based workplace and to immediately contact the President or Executive Director if they witness conduct or receive a complaint of workplace discrimination and/or harassment. If the concern involves the President or Executive Director, you will immediately advise the Vice President, Operations and Finance.
6. Duties of all employees
  - a. Employees must do their part by ensuring that their behaviour does not violate this policy and by fostering a work environment that is based on respect and is free of harassment and discrimination.
  - b. Report all incidents experienced or witnessed promptly to the Director of Operations or to the Executive Director where the incident involves the Director of Operations.
  - c. Cooperate during the investigation process.
  - d. Be familiar with and follow the procedures in place to report incidents or concerns in violation of this policy that you are involved with directly or have witnessed.
  - e. Participate in all training and information series regarding workplace harassment and discrimination prevention efforts.

**PROCEDURE FOR RESOLUTION AND INVESTIGATION:**

1. If the complaint cannot be resolved informally or if it is too serious to handle on an informal basis, you should bring a formal complaint to the appropriate Supervisor, the Executive Director, or the President. If your complaint involves the Executive Director, you should bring a formal complaint to the President.
2. If you wish to bring forward a formal complaint, the Supervisor, the President, or Executive Director will assist you in completing an Internal Disclosure Form.
3. It is important that we receive your complaint as soon as possible so that the problem does not escalate or happen again. Complaints should be pursued as soon as possible but not later than one (1) year from the date of the alleged violation. Once we receive your complaint, we will initiate a formal investigation that is reasonable in the circumstances, and that is fair, respectful, and timely.
4. If you decide not to make a formal complaint, we may still need to investigate the matter and take steps to prevent further harassment and/or discrimination. For example, we may need to continue with an investigation if the allegations are serious or if there have been previous complaints or incidents involving the respondent.
5. If the investigation involves the Executive Director, an Officer, or a senior leadership member of the Federation, the Federation will refer the investigation to an external investigator to conduct an impartial investigation.
6. Once the investigation is complete, the investigator(s) will prepare a detailed report of summary evidence received, description of any conflict of evidence, findings of credibility, findings of fact and conclusion about whether a violation of this policy and/or the provisions of the Ontario Human Rights Code or Occupational Health and Safety Act, as amended, has occurred. The report shall be provided to the Executive Director and/or their designate. Where it is alleged that Executive Director is directly involved in the complaint, the report shall be delivered to the President.
7. Within ten (10) days of receiving the investigation report, the complainant and respondent will be informed in writing of the results of the investigation and any corrective action taken or that

will be taken by the Federation to address a substantiated violation of this policy. Such time frame may be extended in appropriate circumstances (i.e. availability of the individuals to meet, illness, absence from the workplace, global emergency, etc.)

**CONFIDENTIALITY:**

1. We recognize the sensitive nature of discrimination, harassment, and violence complaints and we will keep all complaints confidential to the extent that we are able to do so. We will only release as much information as is necessary to investigate and respond to the complaint, take corrective action with respect to the incident, complaint, or situation, or is required to do so by law.
2. Out of respect for the relevant individuals, it is essential that the complainant, respondent, witnesses, and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterwards. In most situations, those involved in the complaint process will be required to sign a confidentiality agreement.
3. Confidentiality is in no way intended to inhibit a complainant's ability to seek counselling, professional, or support services during the complaint process.
4. All records of workplace harassment will be kept confidential and will not be disclosed unless necessary to investigate an incident or complaint of workplace harassment and/ or take corrective action or otherwise required by law.

**RECORD KEEPING:**

1. WUSA will keep records of the investigation including:
  - a. A copy of the complaint or details about the incident
  - b. Any record of the investigation, including notes
  - c. A copy of the investigation report (if any)
  - d. A summary of results provided to the employee
  - e. A copy of any corrective action taken to address the complaint or incident of workplace harassment

**COMPLIANCE AND ENFORCEMENT:**

1. The Federation will determine what action should be taken as a result of the investigation.
2. If a finding of discrimination, harassment, or violence is made, the Federation will take appropriate corrective measures and will consider such facts including but not limited to:
  - a. The seriousness of the offending conduct;
  - b. Whether or not the conduct is an offence under the Criminal Code;
  - c. The harm caused to the Complainant;
  - d. Whether the respondent engaged in or encouraged reprisal or retaliation;
  - e. Whether the respondent abused a position of authority;
  - f. Risk of the respondent continuing or engaging in similar future conduct;
  - g. Any admission of wrongdoing, willingness to make restitution, or apology;
  - h. Willingness of the respondent to engage in awareness sessions, training, or other recommended counselling or treatment.
3. Corrective measures may include one or more of the following:
  - a. Discipline such as verbal warning, written warning
  - b. Termination with or without cause

- c. Referral for counselling, anger management training, supervisory skills training, or attendance at educational programs on workplace respect
    - d. Any other disciplinary action deemed appropriate under circumstances
4. Corrective measures against third parties and members, while limited, may include:
  - a. Verbal or written warning
  - b. Permanent ban from WUSA sanctioned activities
5. If you make a complaint in good faith without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline. WUSA will, however, discipline anyone who brings forward a false or malicious complaint.
6. If there is not enough evidence to substantiate the complaint, corrective measures will not be taken.

**HISTORY:**

This is the first iteration of the Harassment and Discrimination Policy.

**APPENDICES:**

1. Internal Disclosure Form



## Internal Disclosure Form

*This Internal Disclosure Form is designed to assist you with providing information about a disclosure of wrongdoing to your supervisor. The information provided on this form will help to facilitate review of the matter.*

**Please submit this form and any other supporting documents to your supervisor. If you are unable to include all details about the alleged wrongdoing on this form, you may submit further details as a separate document, however, please include it when you submit this form.**

### TYPE OF WRONGDOING

**Please check all that apply\***

The wrongdoing I wish to disclose relates to:

- An act or omission constituting an offence under an Act of the Legislature or the Parliament of Canada, or a regulation made under an Act
- An act or omission that creates a substantial and specific danger to life, health, or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of an employee
- Improper or fraudulent financial reporting or accounting practices
- Unethical business conduct in contravention of Codes of Conduct Knowingly
- directing or counselling a person to commit one or more of the wrongdoings described above

**\*If none of the above apply, please consider addressing the matter through other internal policies and procedures or contact your supervisor.**


### STATEMENT OF UNDERSTANDING

I, \_\_\_\_\_, have read and understand the *Internal Disclosure Policy*. I understand that if I file a report in good faith, then I will not be subjected to any form of penalty or reprisal. However, if it is determined that I filed an internal disclosure report maliciously or in bad faith, with the intent to harm an individual or the Federation as a whole, I may be subject to discipline.

## DISCLOSURE DETAILS

In the space provided below, please provide information about the wrongdoing and the person(s) alleged to have committed the wrongdoing. The following details are required, if known:

- a description of the wrongdoing
- the names of those responsible
- when the wrongdoing occurred
- indication whether the matter has already been reported and the response received

A large, empty rectangular box with a thin black border, intended for the user to provide the details of the wrongdoing as requested in the text above.