



Equality Policy and Procedures on

DISCRIMINATION, HARASSMENT and SEXUAL HARASSMENT



Authority: National Executive Board
Implementation: Values and Beliefs Committee
April 18 2015

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We, the members of CUSW are committed to the right of all members to equal treatment within the Union, without discrimination because of race, national or ethnic origin, colour, religion, citizenship, record of offences, creed, sex, sexual orientation, age, marital status, family status or disability (the "grounds").
In this commitment:

RESPECT



We believe in the **right of all members to participate** in the Union and be involved in all Union activities, in an environment that **respects** the personal worth and dignity of each individual and freedom from discrimination, harassment and sexual harassment.

TOGETHERNESS



We believe that it is a Union priority to encourage without discrimination all workers to **share** in the full benefits of Union organization.

We believe that it is a union priority to **eliminate barriers** that prevent us from working together to gain more control of our lives.

PREVENTION



We believe in an approach to discrimination, harassment and sexual harassment that emphasizes **prevention and correction over punishment**.

In keeping with our founding Constitution provisions on equality, gender and discrimination, **mutual respect must be the basis** of interaction among members in addition to cooperation and understanding.



CUSW members will not tolerate nor condone behaviour that is likely to undermine the dignity or self-esteem of an individual, or create an intimidating, hostile or offensive environment.

We, the members of CUSW consider discrimination and harassment of any kind to be a serious offence and complaints will be investigated in accordance with the procedures outlined below.

This Policy and the within procedures cover member-to-member discrimination, harassment and sexual harassment.

The Policy and within procedures also govern the operation of our referral procedure where we will make every reasonable effort to **ensure that members are not subjected to discrimination, harassment or sexual harassment.**

This document is intended to act as a guide for members, in adhering to legal and social guidelines regarding the recognition and prevention of discrimination, harassment and sexual harassment.

Further, this policy and procedures are intended to comply with all applicable Human Rights legislation, labour legislation and the Canadian Charter of Rights and Freedoms.

Discrimination and Harassment include any unwelcome action by any person, whether verbal or physical, on a single or repeated basis, which humiliates, insults or degrades.

“Unwelcome” or “unwanted” in this context means any action, which the harasser knows, or ought reasonably to know, is not desired by the person subject to the harassment or discrimination.

DEFINITIONS

Discrimination, harassment and sexual harassment are defined as:



1. DISCRIMINATION

- Any form of unequal treatment based on a ground listed above that results in **disadvantage**, whether imposing extra burdens or denying benefits.
- It may be **intentional or unintentional**.
- It may **involve direct actions** that are discriminatory on their face, or it may **involve rules, practices or procedures** that appear neutral, but have the effect of disadvantaging certain groups of people.
- It may be obvious, or it may occur in very subtle ways.

1.a. Types of Discrimination

- **Direct Discrimination**
“Direct” discrimination occurs when person(s) discriminate against others on the basis of a ground listed above.
- **Adverse Effect Discrimination**
“Adverse effect” discrimination occurs when a policy, procedure or rule, which on its face appears neutral, yet has the effect of discriminating against person(s) or group(s) of persons on the basis of a ground listed above.
- **Systemic Discrimination**
“Systemic” discrimination is when attitudes towards, or perceived characteristics of, person(s) or group(s) of persons leads to discrimination.
- **Discrimination Because of Association**
Discrimination “because of association” is when person(s) or group(s) of persons are discriminated against because he/she socializes, supports, or is otherwise associated with members of any group identified under the grounds listed above, to which he/she does not belong.

2. HARASSMENT



- A course of **comments or actions**, on a single or repeated basis, that are known, or ought reasonably to be known, to be **unwelcome**.
- It can involve words or actions that are known or should be known to be **offensive, embarrassing, humiliating, demeaning or unwelcome**.



3. SEXUAL HARASSMENT

- Any **conduct, comment, gesture or contact of a sexual or gendered oriented nature** that the person responsible knows, or ought reasonably to know, are **unwelcome**.
- Sexual harassment includes any unwanted attention of a sexual nature such as remarks about appearance or personal life, and offensive written or visual actions like graffiti or degrading pictures, physical contact of any kind, or sexual demands.
- Sexual harassment includes any conduct, comment, gesture or contact that might, on reasonable grounds, be perceived as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.

Confidentiality

The Union understands that it is in the interests of all parties to keep matters arising under this Policy confidential. **Rumours and innuendo destroy the integrity of the fact-finding process and the principles of early and informal resolution.**

To protect the interests of the Complainant(s) and the Respondent(s), **confidentiality will be maintained throughout the complaint process**, subject to the requirements of a fair investigation and resolution process, or as otherwise required by law.

It is understood that written reports or decisions of Investigators and Appeal Chairs and Appeal Hearings may be made available for the purposes of implementation, education or reporting to the membership.

No Reprisals

Every member has the right to enforce his/her rights under this Policy and to participate in an investigation of a complaint by the Union, or provide information relevant to the complaint to the Union, **without reprisal or threat of reprisal.**

Reprisals for such activities will be investigated and may lead to disciplinary measures /sanctions.

Carriage of Complaint

A Complainant can drop a complaint at any stage of the process. If at any stage of the proceeding both parties agree on the resolution of a complaint, it is deemed to be resolved.

Representatives

Where a complaint has progressed to the verbal complaint stage, the President of CUSW will designate, in writing, **two members of the Union to each represent the Complainant and the Respondent.** Members designated to act as representatives will receive training related to this Policy, the principles of fairness and natural justice, the duty of fair representation, problem solving and mediation techniques.

Time

Complaints should be commenced as soon as possible, and must be filed **within twelve (12) months of the incident(s)** which is the subject of the complaint. Where the subject matter of the complaint is ongoing, the date of the last incident must have occurred within the previous twelve (12) months.

Every effort must be made to comply with the time limits set out in this document, but a failure to do so will not void the complaint process. **Time limits can be extended upon mutual agreement** or at the discretion of the President of CUSW.

A decision to extend the time limits under the Policy will consider:

- a. prejudice to any party that may result from an extension;
- b. whether a delay was incurred in good faith; and
- c. any other relevant factor.

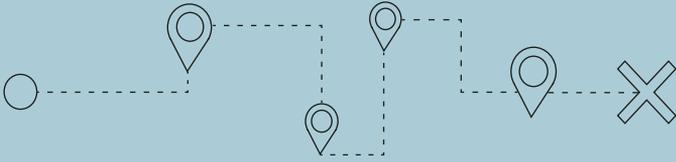
Right to Seek Resolution Outside the Union

These procedures are designed to ensure that the Union and its members comply with the Equality Policy on Discrimination, Harassment and Sexual Harassment.

However, it does not prevent any individual from seeking other options available to them, such as an application under Provincial or Federal Human Rights legislation, an action in the courts, or any complaint mechanism under a Collective Agreement.



PROCEDURE



Informal Stage **1**

1. A person who believes that she or he has been discriminated against, harassed or sexually harassed in contravention of this Policy is encouraged to take immediate remedial action.
2. Where appropriate, a **member may request**, either on his/her own or via a third party, that the offensive conduct or comment **cease**.
3. If a direct request has failed and the inappropriate behaviour persists, or where a direct request is not appropriate, and the member believes that a violation of this Policy has occurred, he or she may **contact the President of CUSW** to request that the complaint go to the **next stage**.
4. The National Executive Board **may initiate a complaint** by itself or at the request of any member.

Verbal Complaint Stage **2**

1. The President of CUSW will designate in writing, two members of the Union to **represent** the Complainant and the Respondent.
2. When a formal complaint is filed under this Policy, the Complainant may request that contact with the other party be **discontinued** while the complaint is being investigated and decided upon. In such circumstances, **the Union will review the request for separation**, and in making its decision, take into consideration the nature of the complaint, the feasibility of the request and the operations of the Union.

3. **A member who is the subject of a complaint made** under these procedures who **has reason to believe that the complaint is vexatious**, in bad faith, or itself a form of harassment, will have the **right to file a complaint**. Vexatious and bad faith complaints are where the complaint is one that is known by the complainant to be false, meaning that the complainant knew that no discrimination or harassment had occurred, and where the complaint is made for a purpose other than gaining a satisfactory remedy.

4. **The representatives may be contacted** by the parties to a complaint for advice and the representatives will discuss with the members their options and ensure that the members have an understanding of their rights and responsibilities under the Policy.

5. The designated representatives of the Complainant and the Respondent will **investigate** the situation or complaint and endeavour to affect a resolution. The representatives will investigate the complaint in a fair and timely manner.



Early Resolution Process

Where appropriate, **the parties are encouraged to resolve their disputes** through an informal, early resolution process such as unassisted discussion, facilitated discussions and/or informal negotiations.

Early resolution is intended to arrive at resolutions which are acceptable to the parties without the necessity of a written complaint and prior to initiating the formal complaint process.

The parties may choose to be represented by their representative during any stage of the early resolution process.

If the representatives of the Complainant and Respondent are unable to affect a resolution of a situation or complaint, the Complainant will have the right to go to the next stage.

Written Complaint Stage **3**

1. **The Complainant may initiate a written complaint** and provide the complaint to their designated representative, who will inform the designated representative of the Respondent that a written complaint has been received.
2. The designated representative of the Complainant will **forward** any written documentation outlining the complaint to the designated representative of the Respondent.
3. The Respondent may **respond** to the complaint in writing and provide his/her written response to their designated representative, who will forward any written documentation to the designated representative of the Complainant.
4. The designated representatives will **forward** the written complaint, and written response if any, to the **President of CUSW** for recording purposes.
5. The representatives of the Complainant and Respondent will initiate an investigation and **separately interview** the Complainant, Respondent and witnesses if there are any, and endeavour to resolve the situation or complaint.
6. The designated representatives may, with the agreement of the Complainant and Respondent, jointly recommend to the President of CUSW, that an **outside Mediator**, skilled and sensitive on the issues, be retained by the Union in an endeavour to resolve the complaint at this stage.
7. If the complaint cannot be resolved at the written complaint stage, the Complainant will have the **right to go to the next stage**.

Formal Hearing Stage **4**

- The designated representative of the Complainant will write to the Union President and advise him/her that **the Complainant wishes to have the matter heard by a Judicial Committee of the Executive Board**.

- **Any and all documents** made available during the earlier stages of the complaint will be **provided** by the designated representative of the Complainant and **forwarded to the Union President**, together with the request for the establishment of a Judicial Committee.
- The Respondent to a complaint and his/her designated representative will be advised in writing by the Union President that a **complaint has been filed** and **copies of all documents** provided by the designated representative of the Complainant **will be attached** to the notice from the Union President.
- Any **additional documents** made available during the earlier stages of the complaint, which are in the possession of the Respondent will be provided by his/her designated representatives and forwarded to the Union President. The documents will be forwarded to the representative of the Complainant.
- The role, responsibility and authority of the Judicial Committee are as outlined in the **Constitution**. The rights and responsibilities of members appearing before a Judicial Committee are as outlined in the Constitution.
- **The Judicial Code contained in the Constitution will apply to complaints** discrimination, harassment or sexual harassment under this Policy, except the provision requiring that a charge be filed within thirty (30) days from the date of the alleged violation or offence occurring; this provision will be waived to allow members an opportunity to resolve complaints at the earlier informal, verbal and written stages as described in this Policy.



POLICY IMPLEMENTATION

Publicity

This Policy and within procedures will be posted at all Union events or activities. A copy of the Policy and within procedures will be made available to new members as part of a New Members Orientation Kit.

Collective Bargaining

Newly organized members will be encouraged to bargain for contract language to protect members against discrimination, harassment and sexual harassment in the workplace.

Education and Training

The Union will provide education and training on discrimination, harassment and sexual harassment to members of the Union Executive Board, and/or members designated to act as representatives of Complainants and Respondents.

