



Lutheran Theological Seminary
114 Seminary Cr
Saskatoon, SK

Prevention of Discrimination and Harassment Policy: Standards and Provisions for Handling Complaints

This Policy is an integral component of the Academic Handbook, the letters of contract or call for paid and volunteer Administrators, Faculty, Staff, and occasional workers of the Lutheran Theological Seminary Saskatoon (LTS), the Faculty Handbook, the Staff Handbook, the Manual for Internship Supervisors, and the annual Minutes of the Board of Governors. This policy is designed to govern equally the conduct of all members of the LTS community and is annually subject to review, revision, and adoption. This policy will be reviewed annually by the Faculty in the last week in April, and adopted for the upcoming academic year at the August Faculty Meeting and presented to the LTS Board of Governors upon revision at the Fall Board meeting.

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Introduction

Lutheran Theological Seminary Saskatoon (LTS) is committed to maintaining an environment for the formation of leaders for the church and the wider society which fosters equally the dignity and growth of all the individuals working, serving, learning, and visiting in the community of the school. These values undergird the implementation of an annually reviewed policy for the prevention of discrimination and harassment in the community of LTS.

1. Policy Statement

Discrimination and harassment are illegal and prohibited when they are based upon religion, creed, family or marital status, gender or gender identity, sexual orientation, disability, age, colour, ancestry, nationality, geographical origins, race or perceived race, receipt of public assistance, physical size or weight.

LTS does not condone discriminatory or harassing behaviour that interferes with the provision of a positive, productive environment for working or learning. Actions may be taken to directly correct such behaviour. Planned education regarding these issues and enforcement of the policies enact the commitment of LTS to a healthy communal environment. Examples of behaviours that falls within this category includes spreading negative rumours, mean spirited pranks or practical jokes, yelling or swearing at someone, unwanted sexual advances verbally or physically, and other behaviours that are demeaning, intimidating or threatening.

This Policy delineates an individual's freedom to pursue a complaint within the community of LTS but does not limit the individual's freedom to pursue a complaint within the public forums of the Saskatchewan Human Rights Commission, the Department of Labour, the police, or the courts.

2. Jurisdiction

This Policy applies to all members of the LTS community: the members of the Board, President, Faculty (tenure track, sessional, and adjunct), Staff, Students, students' families when at community events, interns and supervisors, dormitory residents, volunteers, and visitors at community events or on campus. It covers alleged violations that occur on or off campus where there is a substantial connection with LTS and impact of an individual's course of work or study.

3. Confidentiality

A. LTS Officials

The President, Academic Dean, Faculty, Staff, Harassment Officer, and Investigators (both internal and external), will protect to the fullest extent possible the confidentiality of information regarding a potential violation of this Policy. However, LTS does not guarantee complete confidentiality because these officials are legally obligated to take whatever legal action necessary to prevent discrimination and harassment and to correct it when it is identified. This policy also obligates all LTS Officials to take pastoral and administrative action to prevent and correct behaviour in the community that interferes with the provision of a positive and productive environment for working and learning.

B. The Harassment Officer

Consultations between the Harassment Officer and any members of the LTS community as previously defined will not be disclosed to others or acted upon without the permission of the person raising the concern. Notwithstanding, the Harassment Officer must disclose information and take action in cases where disclosure is required by law, the complaint or situation has already come to the attention of another LTS official, there is imminent danger to persons, or an abuse of power relations or children is suspected.

4. Records

Only the record of the disciplinary action resulting from filed complaints will be retained in the respondent's official employee or student file.

Complaints determined to have been filed in bad faith, mischievously, or malevolently will be recorded in the complainant's official student or employee file.

Any information pertaining to reports or incidents will be filed by the Harassment Officer and maintained in the official LTS files for a period of fifty years or while any legal or official proceedings are pending. Access to such files shall be only through the office of the Harassment Officer and in the presence of a witness. Nothing shall be added or deleted from the file without the written permission of the Harassment Officer, which shall be recorded on the file. After the period of retention, or in the event of the dissolution of LTS, the records will be destroyed. These records are strictly confidential and will be disclosed only when such disclosure is required by law or by a legal or official proceeding.

5. Ongoing Responsibilities

A. LTS officials.

LTS officials bear an ethical and legal responsibility to take prompt, effective action to prevent and address known or apparent incidents of discrimination and harassment, whether they receive a complaint or not. They are also responsible for acting to promote a positive, productive environment for working and learning and to correct behaviour that interferes with this goal. They are responsible for seeking competent advice regarding a potential violation of this policy. LTS officials with specified tasks below include the Harassment Officer, the Academic Dean, and the Registrar.

B. The Harassment Officer

Under this policy, the designated Harassment Officer is responsible for determining directly when a formal investigation of a complaint will occur. When a formal investigation is in order, the Harassment Officer will advise the supervising official or officials of the respondent (for example: the Board, when the respondent is the President; the President, when the respondent is the Academic Dean or a member of the Faculty, adjunct or sessional faculty or Staff; the Academic Dean, when the respondent is a student, etc).

The Harassment Officer informs the supervisor and is responsible for directing and overseeing formal investigations, as outlined in Sections 10 and 11. The Harassment Officer alone does not adjudicate peer cases or assign discipline directly, though they may be consulted regarding interpretation of the Policy, appropriate industry standards for discipline, and related resources. The Harassment Officer, in consultation with a faculty peer, designates the investigator for a case.

The Harassment Officer is administratively responsible to the President. In the event that the President is a respondent in a complaint, the Harassment Officer is administratively responsible to the Chairperson of the Board and reports the complaint to the Academic Dean and Secretary of the Faculty. The Harassment Officer assesses the merit of the complaint and determines when the case is beyond informal resolution and requires a formal investigation. Specific duties include, but are not limited to, assessing complaints and incidents, providing advice regarding an appropriate course of action, informal resolution, and conducting formal investigations.

The Harassment Officer is not the advocate of any individual or group, maintaining an impartial stance in addressing issues of discrimination and harassment. Where a conflict of interest is identified, the Harassment Officer notifies the President who will appoint an alternate to act as Harassment Officer for the case. In the event that a conflict of interest arises between the President and the Harassment Officer, the Harassment Officer advises the Chairperson of the Board and the Secretary of the Faculty who together designate an alternate to act as Harassment Officer for the case.

The Harassment Officer, with the Faculty Secretary, is responsible for annual review of this Policy and for ensuring that its contents are promoted, and education provided for as outlined in the Policy. The Harassment Officer acts as a central resource for providing all members of the LTS community with consultation, advice, and assistance in resolving or investigating issues of discrimination and harassment.

C. The Academic Dean

The Dean of Students is responsible for distributing this Policy and providing for its review with all entering students.

D. The Registrar

The Registrar is responsible for distributing this Policy in a documented manner to all students inquiring about study at LTS.

6. Definition of Discrimination and Harassment

This Policy prohibits all forms of discrimination and harassment that are defined, as follows, under the most recent edition of the *Saskatchewan Human Rights Code*, and *Regulations*: It is against the law to discriminate against anyone based upon the following prohibited grounds: ancestry, race or perceived race, religion, sex, marital status, disability, nationality and place of origin, age, sexual orientation, family status or receipt of public assistance.

A. Duty to Accommodate

LTS has an ethical and legal obligation to accommodate reasonably the special needs of persons that are related to a prohibited ground, unless it can be shown that the accommodation would result in undue hardship. Accommodations associated with special needs are addressed by the LTS administration in consultation with the University of Saskatchewan Disability Services for Students (for students) and the Health and Wellness Resource Centre (for employees).

B. Forms of Discrimination

Three forms of discrimination are included under Human Rights legislation: systemic discrimination, differential treatment, and harassment.

1) Systemic Discrimination

Systemic discrimination occurs when policies, practices or procedures that appear to be neutral, have a discriminatory effect on an individual or group who is identified by a prohibited ground.

2) Differential Treatment

Differential treatment occurs when an individual or group who is identified by a prohibited ground is subject to treatment that has the purpose or effect of imposing burdens, obligations, disadvantages or preferences on the person or group that are not imposed on others. This category of differential treatment includes such paternalistic actions as assuming that persons with disabilities will not want to be asked questions in class or to do public presentations or to travel with study groups because this might be difficult or embarrassing to them. Further, it includes acting pre-emptively on assumptions about persons' abilities to participate based on knowledge of their familial or social contexts.

3) Harassment, Sexual Harassment

Harassment is a form of discrimination that occurs when an individual or group is subject to unwanted behaviours, remarks or communications that are based on a prohibited ground and create a hostile, intimidating environment for working or learning. To qualify as harassment the complaint will need to involve a serious, isolated incident or a series of unwanted remarks, behaviours or communications.

Harassment includes sexual harassment, which is a form of harassment based on the prohibited ground of sex. Unwelcome conduct of a sexual nature constitutes sexual harassment when:

- a. submission to, or rejection of, such conduct is implicitly or explicitly made a term or condition of an individual's employment or academic status, or
- b. such conduct is used as a basis for making decisions relating to an individual's employment or academic status or welfare as an employee or student or participant in LTS life, or
- c. the unwanted, sexually oriented remarks, behaviours or communications create a hostile, intimidating environment for working or learning for an individual and others observing the behaviour towards the harassed individual.

Harassment behaviour under the *Occupational Health and Safety Act, 1993 and Regulations* includes any inappropriate conduct, comment, display, action or gesture by a person that either:

- a. is based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin, or
- b. subject to Subsections (3) and (4), adversely affects the worker's psychological or physical wellbeing and that the person knows or ought reasonably to know would cause a worker (or student) to be humiliated or intimidated, and
- c. that constitutes a threat to the health or safety of the worker (or student).

To constitute harassment under this legislation, "repeated conduct, comments, displays, actions or gestures must be established; or a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture that has a lasting, harmful effect on the worker must be established." Harassment does not include, "any reasonable action that is taken by an employer, or a manager or supervisor employed or engaged by an employer, relating to the management and direction of the employer's workers or the place of employment."

While the most recent version of Saskatchewan's *Occupational Health and Safety Act*, and its *Regulations* applies to employees, under this Policy, with appropriate modification, this definition of harassment will also apply to complaints of harassment by and against students.

7. Other Prohibited Behaviours

Three other forms of prohibited behaviours are specifically prohibited in this Policy: disruptive workplace conduct, conflict of interest misuse of power, and retaliatory, malevolent, or mischievous complaints.

A. Disruptive Workplace Conduct

LTS does not condone behaviour that interferes with the provision of a respectful, productive environment for working or learning, but is not pervasive or significant enough to meet the definitions of harassment described in Section 6. Depending upon the situation, examples of behaviour that may fall into this category include, *but are not limited to*, spreading negative rumours, mean spirited pranks or practical jokes, yelling at an individual or cursing at an individual, and other behaviours that are demeaning, intimidating or threatening.

LTS officials are responsible for addressing instances of disruptive conduct in the study and work environment in a timely and appropriate manner. This intervention may include corrective action, probationary provisions, or discipline. Complaints regarding behaviour that falls into this category should be reported to the Harassment Officer.

B. Conflicts of Interest Misuse of Power

LTS provides for persons in offices of authority over the work or study of others to be relieved of the responsibility for grading or evaluating or promoting the work of any student or employee with whom they are having a consensual sexual relationship.

Should such a relationship exist or develop, the individual in an office of authority must report the conflict of interest immediately to the administrative superior who ensures that alternate arrangements are made for the evaluation and/or supervision of the employee's or student's work.

This policy precludes placing an individual in an office of authority under alternate supervision or under specialized arrangements in response to speculative or rumoured assessments of personal relationships within the community. If a person has concerns about the authority's integrity or about jeopardy to the community, that person may use this Policy or the Faculty of Staff Handbook guidelines to raise the issue in the proper channels in order to have the matter fairly and properly assessed. If the person remains convinced that integrity is in question, they may register a complaint, under this Policy. As a matter of justice, uninvestigated gossip shall not govern administrative action.

C. Retaliation and Intentionally False Complaints

This Policy prohibits acts of retaliation, including threats, intimidation, reprisals or adverse employment or education action, against a person who has filed a complaint or participated appropriately in the fact-finding, resolution, or formal investigation of a report of discrimination or harassment.

The Policy prohibits intentionally false accusations of discrimination or harassment (malevolent or mischievous complaints that are made in bad faith). Retaliatory or malevolent complaints are those wherein a person misrepresents the facts purposefully or makes accusations maliciously, without regard for the truth. This misrepresentation constitutes an attack on the person who has assisted in upholding the stated goals of the community in maintaining a transparent and healthy community. Reports made in good faith may be unsubstantiated by an investigation and, as such, are not considered malevolent or mischievous.

The Harassment Officer may assess a complaint to have been made in bad faith or a respondent may indicate reasons for the Harassment Officer to investigate the integrity of the complaint at the outset. This question may be investigated using the same procedure that is used to investigate complaints of discrimination or harassment. Individuals found to have engaged in retaliation or false, mischievous accusations of discrimination or harassment will be subject to corrective and/or disciplinary action.

8. Options for Addressing a Complaint through Informal or Formal Resolution

Reports and complaints of discrimination and harassment are resolved using informal and/or formal procedures.

A. Informal Resolution

Informal approaches focus on resolving the problem between offended parties and re-establishing healthy practices between them within the community. Informal approaches do not focus on determining who is to be blamed or determining actions of discipline. Informal approaches include consultation, clarifying conversations, mediating a dialogue between the offending party and the offended, and arranging for monitored education of the parties involved.

B. Formal Resolution

Formal approaches to resolution focus on establishing the facts, assessing behaviour according to the shared communal standards set forth under this Policy, and implementing appropriate corrective and/or disciplinary action. These approaches include fact-finding investigation, formal investigations, and consultative procedures for resolving complaints and appeals. Formal approaches are used to address

incidents that typically involve reports or allegations of serious misconduct and ongoing patterns of inappropriate behaviour or situations where the facts of a case appear to be ambiguous.

9. Reporting Complaints

Persons believing they have been subjected to behaviour that violates this policy should immediately report their concerns directly to the Harassment Officer or to a LTS official who will assist them in meeting with the Harassment Officer. A LTS official who receives a complaint, whether or not the person is willing to meet with the Harassment Officer, will notify formally the Harassment Officer that there has been such a report. The Harassment Officer will keep a record of such reports so that, should patterns emerge, the Harassment Officer is apprised of the wider context of patterns of complaint.

A. Reporting to the Harassment Officer

Subject to the provisions in Section 3, the Harassment Officer provides a confidential consultation to assess complaints or incidents and to determine whether they fall under this Policy. The Harassment Officer will outline and discuss the Policy options for resolution. The choice for the resolution of the complaint, with regard to the complainant's direct complaint, will reside with the complainant. Nonetheless, as stated in Section 5, the Harassment Officer, as a LTS official, must take prompt, effective action to prevent and address known or apparent incidents of discrimination and harassment even if the complainant chooses to drop pursuing their particular complaint.

Choices of the complainants consulting with the Harassment Officer include:

- a. not to pursue the complaint;
- b. to ask the Harassment Officer to facilitate a resolution or resolve the matter informally;
- c. to request a formal investigation under this Policy;
- d. to take action to resolve the issue directly or address it using another LTS procedure;
- e. to pursue the complaint with the Saskatchewan Human Rights Commission, Saskatchewan Labour, the police or courts.

B. Timely Reporting and Addressing of Complaints

The goal of the Policy is the maintenance of a healthy environment in the LTS community; hence, the immediate and proper handling of perceived or actual instances of harassment is desired.

Barring exceptional circumstances, to be considered under this Policy, a report or complaint must be made within one year of the occurrence of the alleged incident(s). Such reports or complaints will be treated as primary concerns and all reasonable efforts will be made to address them in an immediate and timely manner. Policy time lines are guidelines and will be adhered to as fully as possible.

10. Formal Complaints

A. Formal Complaints against student respondents

As they require formal investigation, formal complaints of discrimination and harassment against students must be filed with the Harassment Officer in a written, signed statement of the matter. If the Harassment Officer brings a complaint, based on materials assessed, the Harassment Officer must file the complaint with the respondent and supervisor in a written, signed statement of the matter.

B. Formal Complaints Against LTS Employees, salaried or volunteer

Formal investigations may be requested, in writing and with signature, by complainants, respondents and LTS officials. A request for a formal investigation is initiated by submitting this complaint statement to the Harassment Officer.

As appropriate, the Harassment Officer will forward a copy of this statement of complaint to the relevant supervisor. The Harassment Officer will give the respondent a written summary of the formal complaint prior to the interview to be conducted. The Harassment Officer, in consultation with the supervisor, will have 20 working days to decide if a formal investigation is warranted. The decision to conduct a formal investigation will be made after the Harassment Officer and the supervisor have reviewed the written complaint and interviewed the complainant and respondent. The Harassment Officer and the supervisor together inform the parties of the decision regarding the action for or against a formal investigation and file a copy of this decision in the official LTS Harassment files.

Annually, a report is given to the LTS Faculty and then the LTS Board of Governors at the May meeting, regarding the statistical instance of such complaints and their disposition.

C. Formal Investigation

Formal investigations are undertaken to determine the substance of a complaint and to decide subsequently upon an appropriate course of action to address the matter if it constitutes a violation of the standards of the community. The Harassment Officer directs and oversees the investigation and may assign a person or committee of persons to assist in carrying it out.

Investigations will be conducted in accordance with the following principles of natural justice and due process. These include:

- a. the right of respondents to be fully informed of any allegations and given an opportunity to respond to them;
- b. the right of complainants, respondents and witnesses to be accompanied by an observer, who may be a representative or a support person.
- c. the right of the respondent to face the complainant in the structured process of the investigation.

The investigation, including the *Investigation Report*, normally will be completed within 60 working days of the time that the respondent was notified that an investigation would be conducted, as noted in Section 10.B, normally within 20 working days of receiving the complaint. Given reasonable application of these guidelines, a complaint would be handled within 80 working days to the extent possible. However, where exceptional circumstances arise, as noted in Section 14, procedural modifications may be made. A careful and timely completion of the investigative and decision making process is to be given top priority by the administrators, complainants and respondents. Arrangements will be made as necessary to insure the integrity of the process is upheld.

Upon completion of the investigation, a written *Investigation Report* will be prepared by the Harassment Officer, or the designated investigator of the Harassment Officer, and reviewed with the supervisor of the respondent, as indicated. The report will contain relevant background information, including a summary of the incidents leading to the complaint and a list of the allegations. The *Investigation Report* will also present the positions of the parties involved and the evidence or factual assertions supporting those positions. The *Investigation Report* will state the judgment of the investigator regarding the context and credibility of the statements received. The *Investigation Report* is handled solely by the Harassment Officer and, as indicated, the supervisor or faculty peer. The *Investigation Report* is not given directly to the parties involved.

The parties involved each receive the written summary of the findings of the *Investigation Report* provided by the Harassment Officer. With the summary, the Harassment Officer reiterates the option of all parties to submit a written response within 10 working days. The written summary, both to the complainant and to the respondent, will be acknowledged by a signed receipt, either by hand or by the postal or courier receipt.

Any written responses received within the 10 working days of response time will be considered in determining the final disposition of the complaint. Any names submitted by the complainant or respondent to clarify the investigator's findings are given to the Harassment Officer. Thereafter, the response option in the process is closed while the option for appeal remains.

11. Written Final Decision

After the 10 day period for either party to provide additional submissions has elapsed, the Harassment Officer and the supervisor, as appropriate, will have 15 working days to implement any additional steps prior to making a final decision. Within this same 15 working day period, the Harassment Officer (and supervisor, if indicated) prepare the final and written decision.

The written decision will contain a determination as to whether or not, on the balance of probabilities, a violation of the Discrimination and Harassment Policy of LTS has occurred. The written decision will contain information on the procedures for appeal, as outlined in Section 13. If indicated, the written decision will include recommendations of disciplinary or remedial action to be taken. The complainant, the respondent, the LTS President, and the supervisor, as indicated, receive written copies of the final decision. In the event that the respondent is a student, copies of the final decision are filed also with the supervising authority of the student, such as the Bishop and CTCL chairperson(s) who relate to that student.

12. Systemic Discrimination

Complaints of systemic discrimination, which is defined in Section 6, should be directed to the Harassment Officer, who will review the alleged discriminatory procedure or practice and prepare a report that summarizes the findings. The Harassment Officer may consult with members of the community and external experts to determine the findings. A copy of this report will be forwarded to the LTS official who is administratively responsible for the procedure or practice. This person will correct any issues of systemic discrimination that are found and inform the Harassment Officer in writing about the outcome of the complaint. The complaint will be handled, normally, within the same time lines as for personal cases.

13. Appeals

Complainants or respondents may appeal the decision of a formal investigation by submitting a written appeal request to the Harassment Officer within 10 working days of the date that a copy of the Written Decision was delivered to them with confirmation. The Harassment Officer will immediately forward to the supervisor who helped determine the case (and to any designated alternative decision-maker, if one had been involved) a copy of the written appeal with the date of receipt noted and signed by the Harassment Officer.

Within 15 working days of the date of receiving the request, the Harassment Officer or the President (in the case of conflict of interest), will select an Appeals Committee consisting of three individuals and will appoint one of the members to act as Chairperson. No individual will be appointed to the Committee who has had direct involvement in the complaint or in the decision of the matter. Preferably, where possible, the Appeals Committee would be formed from appropriately competent peers from the wider University and Church communities. The Appeals Committee receives the *Investigation Report*, any written submissions of response to the summary of the *Investigation Report*, and the final written decision. The Appeals Committee has the freedom to revisit any of the materials in their deliberation.

The Appeals Committee will have 20 working days to determine the outcome of the appeal and to prepare a written decision. The Chairperson of the Appeals Committee will forward the written decision to the Harassment Officer and to the relevant supervisor, as indicated. The Harassment Officer and supervisor will have 15 working days to consider the Committee's decision and make a final written determination of the matter, including the Appeal Committee's decision, and forward this determination to the parties, the President, and the supervisor, as indicated.

This Policy provides for no further appeal.

14. Procedural Modifications

Where an exceptional circumstance arises, the Harassment Officer, in consultation with at least one faculty member *other* than a supervisor who is involved due to oversight of a respondent, may authorize modifications to the procedures in this Policy, providing the modification does not compromise due process. The Harassment Officer will note the modifications and the faculty member consulted in the final *Investigation Report*. The Harassment Officer may consult with the LTS lawyer at any point in the execution of the responsibilities of the Office or in a particular investigation.

For further information, please contact:

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