

Scarborough Campus Students' Union Policy Manual

PROCEDURAL POLICY – Policy and Program against Workplace Violence, Workplace Harassment and Unlawful Discrimination

Adopted January 27, 2024 - BOD

Policy

The Scarborough Campus Students' Union (the "SCSU") is committed to providing a safe and healthy work environment, free from violence, harassment, sexual harassment and unlawful discrimination. In pursuit of this goal, the SCSU prohibits and will not tolerate workplace violence, harassment, including sexual harassment, and/or unlawful discrimination. The SCSU will make every reasonable effort to ensure that its workplace is free from workplace violence, harassment, and unlawful discrimination.

Scope of the Policy and Program

This Policy and Program applies to all individuals working for the SCSU including employees, temporary employees, volunteers, contract service providers, contractors, supervisors, managers, executives, officers, elected officials and directors.

The use of the term "worker" throughout this Policy and Program includes employees, temporary employees, volunteers, contract service providers, contractors, supervisors, managers, executives, officers, elected officials and directors.

The SCSU will ensure that all workers are trained and educated on this Policy and Program. In addition, a copy of this Policy and Program will be posted in a conspicuous place on the SCSU's premises. An electronic copy will be made available to all workers and University of Toronto Scarborough Campus students on SCSU's website.

When an impacted worker is a member of the bargaining unit, this Policy and Program shall be interpreted and applied in a manner consistent with the collective agreement.

What is Workplace Violence?

(a) Definition of Workplace Violence

Workplace violence is:

- (a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- (b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker;
- (c) a statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Examples of workplace violence may include, but are not limited to:

- physical acts (e.g., hitting, shoving, pushing, kicking, sexual assault, throwing an object at a worker, kicking an object the worker is standing on such as a ladder, or trying to run down a worker using a vehicle or equipment);
- any threat, behaviour, or action which is interpreted to carry the potential to harm or endanger the safety of others, result in an act of aggression, or destroy or damage property; or
- disruptive behaviour that is not appropriate to the work environment (e.g., yelling or swearing).

(b) Domestic Violence

Workers are encouraged to advise the Executive Director of issues in the workers' non-work life that might have an impact on the workers' or co-workers' safety in the workplace.

Any worker who applies for or obtains a restraining order or peace bond which lists the SCSU's location or the work or other location of another worker as being a protected area must provide the Executive Director with a copy of the restraining order or peace bond and any other relevant documents or information requested.

(c) Person With History of Violence

The SCSU will communicate information relating to a person with a history of violence where:

- workers may reasonably be expected to come into contact with the person in the performance of their job duties; and
- there is a potential risk of workplace violence as a result of interactions with the person with a history of violence.

The SCSU will only disclose personal information that is deemed reasonably necessary to protect the worker from physical harm.

(d) Assessment of Workplace Violence

The SCSU periodically assesses the risks of workplace violence that may arise given the nature of the workplace, the type of work performed and the conditions under which work is performed. In doing so, the SCSU will institute measures to control any identified risks to worker safety.

This information will be provided to the joint health and safety committee as required by the *Occupational Health and Safety Act* (Ontario). The SCSU will reassess the risks of workplace violence as often as is necessary to ensure that this Policy and Program continues to protect the SCSU's workers from workplace violence.

Weapons are strictly prohibited on the University of Toronto Scarborough Campus, which includes the SCSU's premises. Workers who are in violation of this provision will be subject to disciplinary action, up to and including termination of employment for just cause, and the incident may be reported to the police.

(e) Reporting Workplace Violence

If you are experiencing workplace violence or witness workplace violence, you should take all necessary and reasonable steps to ensure your own safety and the safety of others, including calling 911.

Once safe, it is imperative for the safety of all workers that the incident be reported without delay. Any workplace violence or potentially violent situations should be reported as soon as possible to the Executive Director.

What is Harassment?

(a) Definition of Harassment

Harassment is prohibited by various pieces of legislation in Ontario including, but not limited to, the *Occupational Health and Safety Act* (Ontario) and the *Human Rights Code* (Ontario). Harassment is also prohibited under the collective agreement.

Harassment is a course of inappropriate or vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

Under this Policy and Program, harassment includes but is not limited to sexual harassment, gender harassment, racial/ethnic harassment, ageism, personal harassment, harassment on the basis of sexual orientation and harassment on the basis of a disability. Harassment also includes harassment as defined in the collective agreement.

Harassment most often occurs when there is a pattern of behaviour; however, there could be circumstances in which a single incident of inappropriate behaviour may be substantial enough to constitute harassment.

Harassment can "poison" the work environment where the harassment is related to a personal characteristic protected by the Ontario *Human Rights Code*. A "poisoned work environment" may occur when harassment or inappropriate behaviour related to a personal characteristic protected by the Ontario *Human Rights Code* interferes with a worker's ability to perform the duties associated with his or her position. This can occur even if the comments or conduct are not directed at any one person or at the person whose performance is affected.

A reasonable action taken by the SCSU or a supervisor relating to the management and direction of workers or of the workplace is not harassment.

(b) Sexual Harassment

Sexual harassment is a form of harassment and is defined as:

(i) 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

(ii) 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 advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual harassment is not only sexual in nature. Communicating about, or relying on, gender stereotypes can be a form of sexual harassment. Sexual harassment can happen to anyone and is not limited to people of a particular gender. Some examples of sexual harassment include but are not limited to:

- unwelcome or unwanted sexual advances such as inappropriate patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any other similar physical contact normally considered unacceptable by another individual;
- persistent requests for a "date";
- unwelcome remarks about someone's hair, body shape, etc.; and
- questions about someone's sex life.

(c) How the SCSU is Making the Workplace Free from Harassment

The SCSU has consulted with its joint health and safety committee, where required by the *Occupational Health and Safety Act* (Ontario), in creating and implementing this program. The SCSU will review this program as often as is necessary, and at least annually. The SCSU will provide information and instruction to its workers on the contents of this Policy and Program with respect to workplace harassment.

Unlawful Discrimination

The SCSU will not tolerate any form of unlawful discrimination against job candidates and workers on any of the grounds of discrimination prohibited by the Ontario *Human Rights Code*, whether during the hiring process, during employment or upon termination of employment. This commitment applies to such areas as training, performance assessment, promotions, transfers, layoffs, remuneration and all other employment practices and working conditions.

Complaint Procedure

It is essential that workers inform the SCSU if they think they are being subjected to workplace violence, harassment and/or unlawful discrimination. The SCSU encourages workers to report any incident of workplace violence, harassment and/or unlawful discrimination immediately so that complaints can be quickly and fairly resolved. Members of the bargaining unit may also have access to the grievance process, subject to and in accordance with the collective agreement.

(a) Complaint Procedure

STEP 1: Report the Incident

It is essential that workers inform the Executive Director if they believe they are being subjected to workplace violence and/or harassment or if they witness workplace violence, harassment and/or unlawful discrimination. The SCSU encourages workers to report any incidents to the Executive Director immediately so that complaints can be quickly and fairly resolved.

If a member of the SCSU Board (including but not limited to the President) or a union representative receive a complaint or is otherwise aware of or informed of a workplace violence, harassment and/or unlawful discrimination situation, they must report this immediately to the Executive Director.

Individuals who do not feel comfortable approaching the Executive Director should approach the President. Individuals who do not feel comfortable approaching the President or the Executive Director should approach another member of the SCSU Board.

Members of the bargaining unit may seek support from an appropriate union representative.

The SCSU may require that complaints be made in writing. The written complaint should include:

- the complainant's name and contact information;
- the name of the person or persons involved in each incident and their contact information (if known);
- the name of any person or persons who witnessed each incident and their contact information (if known);
- the approximate date and time of each incident the complainant wishes to report; and
- a full description of what occurred in each incident.

Complaints will be dealt with in as expeditious a manner as possible.

STEP 2: Investigation

The SCSU will ensure that an investigation appropriate in the circumstances is conducted when the SCSU becomes aware of an incident of workplace violence, harassment and/or unlawful discrimination or receives a complaint of workplace violence, harassment and/or unlawful discrimination.

(a) Who Will Investigate

The SCSU Committee (composed of the Executive Director; President, or executive designate; shop Steward, or full-time staff designate; and a representative from the Board of Directors) will determine who will conduct the investigation and may appoint either an internal or an external investigator (the "Investigator") as appropriate in the circumstances. The Investigator may take all steps as he or she deems prudent and appropriate to investigate the allegations.

(b) Timing of the Investigation

The investigation must be completed in a timely manner from the date when the SCSU becomes aware of an alleged incident of workplace violence, harassment and/or unlawful discrimination or a complaint of workplace violence, harassment and/or unlawful discrimination unless there are extenuating circumstances warranting a longer investigation.

(c) Investigation Process

The Investigator may carry out an investigation in the following manner:

- The Investigator will ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The Investigator will remind the parties of this confidentiality obligation at the beginning of the investigation. A breach of this confidentiality obligation by any of the SCSU's workers may lead to disciplinary action.

- The Investigator must thoroughly interview the worker who allegedly experienced the workplace violence, harassment and/or unlawful discrimination, and the respondent, if the respondent is a worker of the SCSU. If the respondent is not an SCSU worker, the Investigator should make reasonable efforts to interview the respondent.
- The respondent must be given the opportunity to respond to the specific allegations raised by the worker. In some circumstances, the worker who allegedly experienced workplace violence, harassment and/or unlawful discrimination should be given a reasonable opportunity to reply.
- The Investigator may interview any relevant witnesses employed by the SCSU who may be identified by either the worker who allegedly experienced the workplace violence, harassment and/or unlawful discrimination, the respondent or as necessary to conduct a thorough investigation. The Investigator must make reasonable efforts to interview any relevant witnesses who are not employed by the SCSU if there are any identified.
- The Investigator must collect and review any relevant documents.
- The Investigator must take appropriate notes and statements during interviews with the worker who allegedly experienced workplace violence, harassment and/or unlawful discrimination, the respondent and any witnesses.
- The Investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the worker who allegedly experienced the workplace violence, harassment and/or unlawful discrimination, the response from respondent, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether or not there has been a breach of this Policy and Program and/or applicable legislation.

SCSU workers have a duty to collaborate with the Investigator's efforts to investigate complaints. SCSU workers are required to participate in investigations conducted under this Policy and Program.

STEP 3: Resolution

With respect to complaints of harassment only, a worker who makes a complaint of harassment and the respondent to the complaint (if they are still employed with SCSU) will be notified of the results of the investigation and of any corrective action taken or that will be taken by the SCSU following the conclusion of the investigation, as required by the *Occupational Health and Safety Act* (Ontario).

A finding of workplace violence, harassment and/or unlawful discrimination will be considered a violation of the conditions under which a worker is employed or engaged by the SCSU. Any substantiated complaints regarding any incident(s) of workplace violence, harassment and/or unlawful discrimination will be addressed by SCSU. The determination of any disciplinary action to be taken will ultimately depend upon the nature of the incident(s) and any surrounding circumstances which those determining the appropriate action may consider. Breaching this Policy and Program is a serious breach of trust and will result in disciplinary action up to and including termination for just cause.

(b) Confidentiality

Information obtained about an incident or complaint, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law. Every individual involved in an investigation of workplace violence, harassment, and/or unlawful discrimination must maintain confidentiality regarding the investigation. Should a worker fail to maintain confidentiality regarding the investigation, the worker may be subject to discipline up to and including termination for cause.

(c) Complaint in Bad Faith

Workers are prohibited from making a frivolous, malicious and/or knowingly false complaint of workplace violence, harassment and/or unlawful discrimination. It is a violation of this Policy and Program for any worker to knowingly make a frivolous, malicious or false complaint or to provide false information about a complaint and workers who do so may be subject to disciplinary and corrective action, up to and including termination for just cause.

(d) No Reprisal

This Policy and Program prohibits reprisals against individuals acting in good faith who report incidents of workplace violence, harassment, and/or unlawful discrimination or act as witnesses. Management will take all reasonable and practical measures to prevent reprisals or threats of reprisal. Reprisal is defined as any act of retaliation, either direct or indirect. /

Policy and Program Review

The SCSU will review this Policy and Program as necessary, and at least annually, and will post the Policy and Program in a conspicuous place in the workplace.