

TWU HARASSMENT POLICY

1.0 STATEMENT OF PRINCIPLES

1.1 Commitment of the TWU

The TWU is committed to providing its members an environment in which all individuals are treated with dignity and respect. Each individual has the right to work in an atmosphere which promotes equal opportunities and prohibits discriminatory practices.

The TWU has adopted this policy to make it clear that harassment will not be tolerated in any form in this union. The TWU encourages reporting of all incidents of harassment, regardless of who the offender may be.

The Union recognizes that its members may be subjected to harassment by other members, or by individuals who conduct business with the TWU. In these circumstances, the TWU acknowledges its responsibility to do all in its power to support and assist the person subjected to such harassment.

1.2 Application of the Policy

This policy applies to all TWU members, including but not limited to elected paid officers, elected local officers, appointees to Union positions, and rank-and-file members of the TWU. This policy also acknowledges that it is the responsibility of all members of the TWU to challenge harassment where and when it is encountered.

This policy is in addition to and not in substitution for such rights as an individual may have under applicable Human Rights Legislation.

1.3 Purposes

This policy is not intended to constrain social interaction between people in the Union. The purpose of this policy is:

- a. To maintain an environment that is free from harassment.
- b. To alert all members of the Union to the fact that most forms of harassment are an offence under the law.
- c. To set out the types of behaviours which constitute harassment, discrimination, retaliation against any individual for filing a complaint and/or foster a poisoned work environment.

- d. To set out a process for receiving Harassment complaints, and to provide a procedure by which the Union will deal with these complaints.

1.3.1 Location

For the purposes of this policy, discrimination/harassment in all its forms can occur:

- a. At Union offices.
- b. At Union-related social functions.
- c. In the course of Union work assignments outside of a Union office.
- d. Over the telephone or elsewhere if the person harassed is there as a result of union work-related responsibilities or a union-related relationship.

2.0 DISCRIMINATION

2.1 Prohibited Grounds of Discrimination

A discrimination complaint can result from one or a series of incidents involving unwelcome comments or actions concerning, but not limited to:

- a. Race
- b. National or ethnic origin
- c. Language
- d. Colour
- e. Religion
- f. Age
- g. Sex (including pregnancy and childbearing)
- h. Sexual Orientation
- i. Marital status (Civil Status- Quebec)
- j. Family status (Civil Status- Quebec)
- k. Physical or mental disability (including dependence on alcohol or drugs)
- l. Pardoned criminal conviction

2.2 Harassment

Harassment creates a barrier to equality by demeaning its victims, interfering with their ability to work effectively and, in some instances, even forcing them to resign. Harassment is any comment or conduct that is known or ought reasonably to be known to be unwelcome by a reasonable person, and which serves no legitimate organizational purpose and which:

- a. Denies individual dignity and/or respect.

- b. Denies the right to representation, or to represent.
- c. Detrimentally affects members within the Union Organization.
- d. Excludes or inhibits members from holding office except as outlined in the Constitution or the Local Bylaws.
- e. Has an adverse job-related consequence such as job security or career advancement.
- f. Defames or maligns an individual's reputation that would affect a member's candidacy for office or position in the Union.

2.2.1 Other Inclusions

Harassment may also include:

- a. Threats or verbal abuse
- b. Innuendos, accusations either written or verbal
- c. Indirect or explicit intimidation
- d. Abuse of authority
- e. Unwelcome remarks, jokes, taunting about a person's body, attire, age, marital status
- f. Displaying pornographic, racist or other offensive or derogatory pictures
- g. Unwelcome invitations or requests
- h. Leering or other inappropriate gestures
- i. Inappropriate physical contact, such as touching, patting, pinching or punching
- j. Physical assault

2.3 Poisoned Work Environment

A poisoned work environment is created when there is a focused pattern of behaviour or a broader systemic problem that exists and is tolerated, participated in, or condoned by Executive Council, Local Officers, or Rank-and-File members. If the behaviour has been found to:

- a. Prohibit the representation of members or limits the freedom of speech.
- b. Prohibit the democratic functioning of any level of the Union.
- c. Create an environment that harasses or causes persons to be treated with disrespect or discrimination.

It may be acknowledged as a Poisoned Work Environment.

3.0 CONFIDENTIALITY

The TWU recognizes the difficulty of coming forward with a complaint of harassment, as well as a complainant's interest in keeping the matter confidential. To protect the interests of the Complainant, the Respondent, and others who may report incidents of harassment, confidentiality will be maintained throughout the process and information relating to the complaint will only be disclosed to the extent necessary to carry out these procedures. The TWU will administer this policy in accordance with its obligations under applicable personal information protection laws.

Where permitted by law, the TWU may collect, use or disclose information necessary to conduct an investigation related to this policy without consent.

3.1 Records

All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material will only be disclosed to the extent necessary to carry out the complaint process. The original records will be stored indefinitely in the office of the Human Rights Officer assigned to the case.

4.0 COMPLAINT PROCESS

4.1 Initial Action by Complainant

A person who considers that she or he has been subjected to harassment (the "complainant") is encouraged to bring the matter to the attention of the person responsible for the conduct. Where the complainant does not wish to bring the matter directly to the attention of the person responsible, or where such an approach is attempted and does not produce a satisfactory result, the complainant should file a formal complaint.

The complainant shall file a written complaint with the Human Rights Officer ("HRO") assigned to the Province of which the complainant resides in. The complaint shall contain but is not limited to the following specifics:

- a. Who are the Complainant(s) and the Respondent(s)?
- b. What discrimination/harassment occurred?
- c. When did this occur?
- d. Where did this occur?
- e. Were there any witnesses?

4.2 Handling the Complaint

- a. The HRO who is handling the complaint will consult with the remaining HROs to determine on the face of the complaint that a bona fide complaint exists. If the complaint is not found to be a bona fide complaint, the complainant will be notified. The complainant will have a right to appeal as outlined in 4.3.2 of this policy.
- b. Once the HROs have found on the face of the complaint that a bona fide complaint has been filed. The HRO will notify the President.
- c. The HRO will notify the respondent that a complaint has been filed against them. The HRO will notify the respondent of who the complainant is, what allegation(s) is/are filed against them, and will ask the respondent to respond to the complaint filed against them either verbally or in writing. The response will be shared with the complainant to ensure every opportunity is made to resolve the complaint if possible prior to an investigation taking place.
- d. The HRO will investigate the complaint if no resolve has been reached, recognizing that throughout the investigation a resolve to the complaint can be reached with the complainant. If the complaint has been resolved, a written report will be included in the file and the file will then be considered closed with a record kept in the HRO's office. The file will be considered confidential.
- e. If the HRO finds that the complaint cannot be resolved prior to the investigation being completed, a written report including a recommended resolution shall be generated.
- f. If a complaint of harassment or discrimination has been substantiated and remedial action is required, the HROs will, at that time, make a recommendation in a closed meeting to Executive Council to resolve the complaint. The decision of a final resolve will ultimately rest with the Executive Council.
- g. If, upon completion of the investigation, the HRO concludes that no harassment or discrimination has occurred, the complaint will not proceed and the records will be kept in the HRO's office.
- h. Regardless of the outcome, the HRO assigned to the case will set up separate meetings for both the complainant and the respondent in order to communicate both the findings of the investigation and resolution to them.

4.3 Results and Other Remedies

4.3.1 Resolution

Upon completion of an investigation in which the complaint has been substantiated, remedial measures will be sought to satisfactorily resolve the matter.

4.3.2 Complainants Right of Appeal

Where the complainant does not believe that their complaint has been satisfactorily resolved, the complainant may:

- a. Appeal to Executive Council in the form of a written appeal.
- b. File a complaint with their designated Human Rights Tribunal.

5.0 CONFLICTS OF INTEREST

5.1 Conflicts of Interest with the President of the Union

In the event that the HROs have found, on the face of the complaint, that a bona fide complaint has been filed and that this complaint poses a conflict of interest for the President, the HRO will notify the Vice President assigned to the Province for which the complainant resides. The Vice-president will then assume all the duties and responsibilities outlined for the President throughout the complaint process.

5.2 Conflicts of Interest with the HRO

- a. In the event that the HROs have found, on the face of the complaint, that a bona fide complaint has been filed and that this complaint poses a conflict of interest for the HRO in the Province for which the complainant resides, then the complaint shall be filed with another HRO in closest proximity to where the complainant resides.
- b. In the case that the complaint is filed against one of the HRO who will be determining on the face of the complaint that a bona fide complaint exists, HRO will remove him/herself from the complaint.

5.3 Conflicts of Interest with Executive Council Members

In the event that the HROs have found, on the face of the complaint, that a bona fide complaint has been filed and that this complaint poses a conflict of interest for one of the members of Executive Council, that member will not participate in either the closed meeting or in any appeal that may arise out of the complaint.

6.0 MAKING FALSE ACCUSATIONS

For the purposes of this policy, a false accusation is defined as any accusation brought forward by an individual or group of individuals who are aware that the facts surrounding the accusation

are frivolous or vexatious, inaccurate or untrue. The complaint must be filed with reasonable grounds to believe that an injustice has occurred. False or malicious accusations are detrimental to both the respondent and the welfare of union, and will not be tolerated.

6.1 Handling of a False Accusation

In the event that the HRO who handled the complaint believes a malicious complaint has been filed, the matter will be referred to Executive Council. The Executive Council will attempt to correct any harm that has occurred to the respondent, and respond accordingly to the complainant in a manner that is deemed appropriate.

6.2 Retaliation

Retaliation is any action taken against an individual in revenge for having:

- a. Invoked this policy whether on behalf of oneself or another individual.
- b. Participated or cooperated in any investigation under this policy.
- c. Been associated with a person who has invoked this policy or participated in these procedures.

Retaliation for filing a complaint, or in association for acting as a witness in a complaint, will not be tolerated by the TWU or its membership under this policy. Retaliation is considered a serious breach of this policy, and Executive Council will act in their discretion as they deem appropriate to stop or correct retaliatory actions by anyone covered under this policy.

7.0 TIMELINES

Complaints must be filed within a year of the alleged violation of this policy unless extraordinary circumstances existed that prevented the complaint being filed within that time frame.

(The new TWU Harassment Policy was adopted at the February 2007 Executive Council.)