

PREVENTION OF VIOLENCE IN THE WORKPLACE

PROCEDURE FOR FILING COMPLAINTS OF VIOLENCE BY UNIVERSITY EMPLOYEES

REFERENCE: RHR-224-b *Prevention of Violence in the Workplace*

DATE: May 30, 2018

In this document, the masculine form is used without prejudice and for conciseness purposes only.

1. Purpose

Policy RHR-224-b *Prevention of Violence in the Workplace* emphasizes the value Saint Paul University places on creating and maintaining a workplace where employees are treated with respect and dignity, in accordance with the provisions of Ontario's *Occupational Health and Safety Act* (OHSA).

Measures to prevent workplace violence, immediate intervention in dealing with incidents or complaints of workplace violence as well as sustained follow-ups are essential in creating and maintaining such a workplace. The University is committed to take measures to deal with any informal or formal measure in a prompt manner, as set out in the present procedure.

2. Risk assessment

- 2.1 Saint Paul University reassesses the risks of workplace violence as often as required to ensure that the policy continues to protect employees from workplace violence.
- 2.2 The University informs the Joint Health and Safety Committee (ADM-112) of the results of its risk assessment or reassessment.

3. Procedure for obtaining immediate assistance

- 3.1 Any employee requiring immediate assistance should call 911 or contact Protection Services at extension 5555 from a University phone.

4. Procedure for reporting an incident or filing a complaint of violence

- 4.1 An employee who believes himself to be a victim of violence, thinks he has witnessed an act of violence or believes that an act of violence might occur, must immediately contact Human Resources Services and disclose all relevant information. If the person against whom the complaint is being made is a Human Resources Services employee, the complaint is filed with the Secretary General, who will act on behalf of Human Resources Services in managing the procedure. If the threat is serious and immediate, the University will send information and instructions to employees.
- 4.2 An employee who believes himself to be a victim of violence should document details of any incident or threat of violence, including the date, time and nature of the incident as well as the name of persons who could testify to the incident.
- 4.3 Based on the information obtained during the meeting mentioned in article 4.1, Human Resources Services determine whether the situation falls within the scope of this procedure. Each situation is assessed individually and Human Resources Services may, if necessary,

refer the file to another authority (e.g., Protection Services) or invite the complainant to opt for another form of recourse (e.g., police).

- 4.4 When Human Resources Services determine that the situation falls within the scope of this procedure, they will inform the employee of the three resolution mechanisms available to resolve the situation, namely:
- informal awareness-raising process;
 - mediation process;
 - formal dispute resolution (investigation).
- 4.5 Recourse under the present procedure does not deprive the employee of any other recourse under applicable laws, regulations or collective agreements in force.
- 4.6 Regardless of the recourse selected, the employee:
- has the right to be accompanied by another employee, his supervisor or union representative to facilitate the meeting or to resolve the matter;
 - maintains control of his complaint and may choose to stop the process at any time or change the dispute resolution mechanism.
- 4.7 Even in a situation where no formal or informal complaint has been submitted, the University reserves the right to file a complaint and investigate all possible cases of workplace violence.
- 4.8 Informal awareness-raising process
- a) The informal awareness-raising process aims to resolve the situation in an informal manner, without opening a file.
 - b) The informal process is initiated through a verbal mandate filed by the employee.
 - c) In the informal process, Human Resources Services, at the request of the employee, intercede with the person against whom the complaint has been made to inform him of the situation, to foster, if applicable, an awareness of the consequences of a given conduct, to reconcile positions, to eliminate misunderstandings and, if applicable, encourage the person against whom the complaint is made to cease or change the behaviour of which he is accused.
 - d) An informal resolution may be the subject of a written agreement. No other documentation arises from the informal process. However, in such a process, the University expects the parties to :
 - listen to one another;
 - avoid disrespecting one another;
 - reach a mutual understanding;
 - re-establish a normal relationship.

If the employee is not satisfied with the outcome of the informal process, he can request the mediation process or file a formal complaint.

4.9 Mediation process

- a) The mediation process is initiated by the filing of a signed written mandate by the complainant. The mandate must include the following information: the name of the person against whom the complaint is being made, a description of the alleged conduct, the date, time and names of witnesses.

- b) Within five (5) business days of the filing of the written mandate, Human Resources Services meet with the person against whom the complaint has been made and inform him of the following:
 - the identity of the complainant and the nature of the complaint;
 - the implications and consequences of the alleged conduct;
 - the request for resolution of the dispute through the mediation process.
- c) Human Resources Services give a copy of the complaint and a copy of this procedure to the person against whom the complaint has been made.
- d) Human Resources Services appoint a mediator who must be approved by both parties. The mediator contacts the parties involved to obtain their participation in reaching an agreement. The person against whom the complaint has been made has five (5) business days to accept the proposed mediation process.
- e) At no time during the course of the proceedings can a refusal of mediation be used against the party refusing it.
- f) If the parties agree to mediation and an agreement is reached to the satisfaction of those concerned, the terms of the agreement are recorded in a document signed by both parties and filed with Human Resources Services.
- g) The mediator notifies Human Resources Services of the outcome of the mediation, and ensures implementation of support and/or corrective measures agreed to in the agreement.
- h) However, the mediator may decide that an investigation may be necessary or that it may be preferable not to proceed any further when:
 - the complainant requests it;
 - either party refuses to participate in the mediation process;
 - there is no agreement between the concerned parties when the mediation process has already begun;
 - the agreement signed by the parties is not honoured.
- i) If applicable, the mediator notifies Human Resources Services.

4.10 Formal resolution process (investigation)

- a) Any employee who believes himself to be a victim of violence may file a written formal complaint, without having to resort to the informal process or to mediation beforehand. No action may be undertaken without a written and signed complaint.
- b) Any person involved in the formal process, including witnesses, can request support from a staff member, his supervisor, union representative or other.
- c) This action may be undertaken with Human Resources Services. If the person against whom the complaint is being made is a Human Resources Services employee, the complaint is then filed with the Secretary General, who will act on behalf of Human Resources Services in managing the procedure.
- d) Any formal complaint is inadmissible if it is filed more than twelve (12) months after the last of the incidents which is subject of the complaint except in extraordinary circumstances justifying the delay.
- e) A formal complaint of violence is filed in writing and must include:
 - a complete detailed description of the incident or incidents;
 - the date and time of the incident or incidents or an explanation if this information is not available;
 - the identity of the person or persons against whom the complaint is being made;

- a list of persons who might have witnessed the allegations;
 - if applicable, the measures taken up to now to resolve the situation;
 - the solution or remedy sought by the complainant;
 - the complainant's signature and the date.
- f) Human Resources Services assess the merit of the formal complaint and determine the process to implement first, namely, either:
- reject the complaint if it does not meet the definition of violence in the workplace, if it is made in bad faith and close the file;
 - forward the complaint to the person against whom it is being made. Request a written reply to the complaint within ten (10) business days. Upon receipt of the reply to the complaint, the Director of Human Resources Services forwards a copy to the complainant. If the person against whom the complaint is being made does not reply, the Director informs the complainant; or
 - launch the investigation process.

5. Review process

- 5.1 The complainant may request a review of the assessment made by Human Resources Services only if the latter has determined that the complaint did not meet the definition of violence.
- 5.2 If the complainant disagrees with the conclusion that the complaint does not meet the definition of violence, he can ask the Secretary General to review the assessment made by Human Resources Services. The complainant must then submit a written request for review within twenty (20) days following the assessment. The Secretary General's decision is without appeal and is conveyed in writing to the complainant and to the person against whom the complaint has been made.
- 5.3 When the Secretary General determines that the situation does not fall under the present procedure, the complainant can pursue other forms of recourse under applicable regulations or collective agreements in force.

6. Interim measures and special cases

- 6.1 Pending the filing of a complaint or the conclusion of an investigation, if Human Resources Services or the Secretary General, if applicable, believe that measures must be taken to ensure the security of individuals or respond to the interests of the University, they may impose interim measures after having consulted the Administration Committee.
- 6.2 If circumstances warrant, interim measures may consist in separating the complainant and the person against whom the complaint has been made or ensuring that exchanges between the two be discontinued or reduced to a minimum.
- 6.3 Example of a special case: The person against whom the complaint is being made has a business relationship with the University—for example, a supplier of goods or services.
- a) Human Resources Services must be notified immediately.
 - b) Human Resources Services must inform the supplier of goods or services that an investigation will be conducted as well as the process undertaken in this regard.
 - c) If the investigation reveals that the complaint is justified, the Administration Committee must take appropriate measures, including removing the supplier from the University's list of approved suppliers.

7. Investigation

- 7.1 When necessary, Human Resources Services appoint an investigator. The investigator may be in-house or external to the University and assumes this role only during the investigation to which he has been appointed.
- 7.2 During the course of an investigation, the investigator's mandate is to:
- ensure that a summary of the complaint has been given to the person against whom the complaint is being made;
 - ensure that the parties involved are aware of policy *RHR-224-b Prevention of Violence in the Workplace* and this procedure, especially the resolution and investigation processes;
 - meet with the complainant, the person against whom the complaint has been made and any other person likely to have relevant information;
 - examine all documents deemed relevant to the complaint;
 - offer the parties an opportunity to resolve the complaint informally;
 - inform the parties of the availability of support services (e.g., Employee Assistance Program, police, emergency shelter);
 - inform the parties of their right to receive support from another person, as specified in the present procedure;
 - inform the parties of the confidentiality of the process and that the University does not tolerate any form of retaliation;
 - conduct his research relating to the complaint of workplace violence with due diligence;
 - determine whether or not a situation of workplace violence exists;
 - write a report.
- 7.3 The results of the investigation may lead to disciplinary measures in accordance with the relevant policies in force.

8. Decision

- 8.1 The determination and application of corrective and supportive measures are the responsibility of the University's Administration Committee.
- 8.2 The Administration Committee informs the complainant and the person against whom the complaint has been made of the results of the investigation, in writing.
- 8.3 Substantiated complaint: If the complaint is legitimate, the person found guilty of violence will be subject to any corrective measures deemed reasonable to the act committed and the harm to the complainant.
- Corrective measures may include, among others:
- For an employee: a warning, a request to produce a written apology, a suspension or dismissal;
 - For a third party: a warning, a request to produce a written apology, a report to the employer or the loss of access or privileges.
- 8.4 Unsubstantiated complaint: If a person files a formal complaint in good faith which is later found to be unsubstantiated by the evidence gathered, the complaint is rejected and no sanctions will be imposed either on the person against whom the complaint was filed or the person who originated the complaint.
- 8.5 Bad faith complaint: When a complaint is found to be abusive, frivolous, made in bad faith or filed with intent to harm, the complainant is then subject to corrective measures (administrative or disciplinary) as indicated in Article 8.3.

9. Confidentiality

- 9.1 Parties concerned in this procedure are held to the strictest confidence. All information gathered in the course of carrying out their duties may only be communicated to the persons and entities directly involved in the case.
- 9.2 Regardless of the resolution process selected for dealing with a file, the complainant, the person against whom the complaint is made, and the witnesses interviewed must respect the confidential nature of the information.
- 9.3 Any disclosure of information is on a “need to know” basis or subject to the level of risk that a person may be exposed to harm under Section 32.0.5 (3) of the Ontario *Occupational Health and Safety Act*.
- 9.4 Confidentiality does not mean anonymity. A complainant wishing to use the mediation process or the formal dispute resolution process must be willing to identify himself, and the person against whom the complaint is being made has the right to know the allegations brought against him and the identity of the complainant.

10. Record keeping

- 10.1 All documents pertaining to an investigation will be kept in a secure location separate from the personal file of the member of the University community, for a maximum period of seven (7) years. The record of any disciplinary measures taken under the policy and the present procedure will be kept in the personal file of the member of the University community.
- 10.2 The University will maintain confidentiality of the information obtained with respect to the complaint of workplace violence. However, the University cannot guarantee confidentiality in the following instances:
 - in the case of criminal conduct;
 - when disclosure is necessary to the investigation, to taking corrective measures, or to ensure compliance with a law.

11. Reprisal

Any form of reprisal against a member of the University community availing himself of this procedure constitutes a violation of the policy and is subject to disciplinary measures.

12. Complaint to the Human Rights Tribunal of Ontario

The present procedure does not prevent a person from filing a complaint with the Human Rights Tribunal of Ontario within the prescribed time limits of the *Human Rights Code*, nor does it deprive a person of the right to seek any other legal recourse available to him.

13. Review and implementation

The Institutional Committee Against Workplace Violence is responsible for the annual review of this procedure.