

**Code of Conduct for Members of the
Legislative Assembly of Saskatchewan: Anti-Harassment Policy**

1. Preamble

Every Member shall commit to contributing to an environment free of personal harassment and sexual harassment and will make every reasonably practicable effort to that end. In furtherance of this commitment, a Member shall not personally harass or sexually harass another Member.

2. Statement of Governing Principles

This policy is governed by the following statement of principles:

1. This policy aims to create an environment that allows all Members to excel in their public duties and functions and that is free of personal harassment and sexual harassment;
2. This policy aims to encourage reporting by Members of instances of personal harassment and sexual harassment; and
3. This policy establishes a resolution process that deals with complaints of personal harassment or sexual harassment, as far as reasonably practicable, in a discrete, timely, and confidential manner.

3. Scope of Application of the Policy

This Policy applies only to allegations of personal harassment or sexual harassment between Members. Pursuant to section 28 of *The Legislative Assembly Act, 2007*, this Policy does not apply to anything said by a Member before the Legislative Assembly or any of its committees.

4. Definitions:

The following definitions apply in this policy:

- (a) "**Complainant**" means a Member who reports allegations of personal harassment or sexual harassment in accordance with this policy.
- (b) "**Intake Officer**" means the individual who is the initial point of contact for Members for filing complaints of personal harassment or sexual harassment in accordance with this policy. The Intake Officer is responsible for coordinating the work of the mediator and/or external investigator. The Intake Officer is the Law Clerk and Parliamentary Counsel.

- (c) "**Investigator**" means an external investigator engaged by the Intake Officer to conduct an investigation of a formal complaint of personal harassment or sexual harassment. In consultation with the Chief Justice of the Court of Queen's Bench, the Intake Officer shall select a Member of the Law Society of Saskatchewan or a retired Judge who is acceptable to the Intake Officer, the complainant and the respondent. If no agreement can be reached regarding who the investigator should be, the Intake Officer shall ask the Chief Justice of the Court of Queen's Bench to decide who will be engaged as the investigator.
- (d) "**Member**" means a Member of the Legislative Assembly of Saskatchewan.
- (e) "**Participants**" means the complainant, respondent and any other individuals involved in the resolution process.
- (f) "**Personal Harassment**" means any inappropriate conduct, comment, display, action or gesture by a person:
- i. that either:
 1. 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
 2. adversely affects an individual's psychological or physical well-being and that the person knows, or ought reasonably to know, would cause an individual to be humiliated or intimidated; and
 - ii. that constitutes a threat to the health or safety of the individual;
- Personal harassment must involve repeated conduct, comments, displays, actions or gestures or a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that causes a lasting harmful effect on the individual.
- (g) "**Resolution Process**" means the reporting of allegations of personal harassment or sexual harassment, the filing of a formal complaint, the mediation process, the investigation, as well as any corrective action that may be imposed.
- (h) "**Respondent**" means a Member who is the subject of allegations of personal harassment or sexual harassment reported in accordance with this policy.
- (i) "**Sexual Harassment**" means any behaviour or action of a sexual nature that:
- i. abuses, humiliates or undermines the personal dignity of an individual, endangers the well-being and security of an individual, interferes with work performance, or creates an intimidating or hostile environment; and

- ii. is made by a person who knows, or ought reasonably to know, that such behaviour or action is unwelcome.

Sexual harassment may include, but is not limited to, unwelcome sexual advances, request for sexual favours, gender-based insults and taunting, the display of sexually explicit and offensive pictures or materials, unnecessary and unwanted touching, and leering or whistling in a suggestive way.

5. Confidentiality

Confidentiality is of the utmost importance.

Participants shall not disclose information related to the resolution process or any personal information relating to any participant unless otherwise provided for in this policy. Given the personal nature of the matters addressed by this policy, and given the potential negative consequences of confidential matters being made public before all facts are known, participants will commit to respecting confidentiality throughout the process and to respecting the privacy of all participants.

Once a matter is resolved, part of the resolution may require that certain information be disclosed publicly. Any public disclosure of personal information or of information related to the resolution process shall only be made in accordance with the terms of this policy, and shall be no more than is sufficient for the public to understand the circumstances and consequences of the resolution.

6. Resolution Process

Step 1 – Reporting Inappropriate Behaviour

A Member may report allegations of personal harassment or sexual harassment by filing a formal complaint with the Intake Officer. The complaint shall be in writing, signed by the complainant and include a description of the nature of the alleged harassment and the identity of the respondent. The complaint shall also include detailed information including, but not limited to, time, date and location of alleged harassment and identification of any witnesses.

The complaint should be filed as soon as possible but no later than 90 calendar days after the last incident of perceived harassment, unless extenuating circumstances exist.

For incidents prior to the implementation of this policy, complaints shall be filed within 90 days of the date of implementation.

Upon receipt of a formal complaint, the Intake Officer shall:

- acknowledge the complaint in writing;

- notify in writing the Member against whom the complaint has been made that a complaint has been filed and provide a copy of the written formal complaint, including the name of the complainant; and
- notify the Speaker of the Legislative Assembly of Saskatchewan that a complaint under this policy has been filed by a Member. No further information, including but not limited to the names of the Members involved, will be provided to the Speaker.
- Members shall participate in the resolution process set out in this policy.

Step 2 – Mediation

Wherever appropriate and possible, the parties to the harassment complaint will be offered the opportunity to attempt a resolution through voluntary mediation prior to proceeding with a harassment investigation. If the Members agree, the Intake officer shall make arrangements within a reasonable timeframe for voluntary mediation with a mediator acceptable to the Members involved.

All materials prepared for, and information exchanged at, mediation shall be confidential. An agreement to mediate will be signed by the parties attending the voluntary mediation to outline their specific obligations of confidentiality and privacy during the mediation process.

Step 3 – Investigation

If mediation is not pursued, or is unsuccessful, the Intake Officer may retain the services of an Investigator to investigate the facts related to the alleged complaint of harassment and to prepare a draft investigation report.

The Investigator is responsible for conducting the investigation in a fair, impartial and timely manner. Once the Investigator is seized with the matter, the investigation shall continue notwithstanding a dissolution of the Legislative Assembly of Saskatchewan.

The Clerk of the Legislative Assembly and the Law Clerk and Parliamentary Counsel will serve as resources for any issues which arise relating to the parliamentary process. The Investigator will prepare a draft investigation report that will include:

- a description of the allegations;
- the response of the Member the complaint was made against;
- a summary of information learned from witnesses (if applicable); and
- a decision about whether, on a balance of probabilities, harassment did occur.

The Intake Officer shall distribute the draft investigation report to the complainant and respondent for their review. Both have 15 business days after receipt of the draft investigation report to submit their comments, in writing, to the Intake Officer. Following the receipt of any

comments provided by the complainant and/or respondent, the Investigator will prepare a final investigation report that includes any such comments.

The preparation of the draft and final investigation reports will be treated in a manner that respects the privacy of the Members involved and other individuals who provided evidence. The Intake Officer will provide a copy of the final report to the complainant and the respondent.

Referral to the Board of Internal Economy

The final report shall be provided to the Board of Internal Economy (the "BOIE") through the Chair of the BOIE to determine appropriate next steps.

At any time during the investigation, the parties may agree to suspend the investigation and return to mediation.

Following an investigation of a complaint, the final investigation report will be provided to the BOIE through the Chair of the BOIE. Within five business days of the receipt of the final investigation report, the Chair of the BOIE shall designate a date for a BOIE meeting within the next 30 calendar days, provided that at least 48 hours' notice is given of the meeting. During a writ period, no investigative report shall be filed with the BOIE and shall be filed after the writ period.

The BOIE shall hold its proceedings *in camera* when discussing the subject of the final investigation report. The complainant and respondent shall have the opportunity to appear before the BOIE in relation to the final investigation report.

In the event that the complainant or the respondent is a Member of the BOIE, the Speaker shall write to the President of the Executive Council and request that the Member of the BOIE who is either the complainant or the respondent be replaced with another Member of the Legislative Assembly pursuant to section 67(3) of the Legislative Assembly Act, 2007.

Step 4 – Corrective Action

Report of the Board of Internal Economy to the Legislative Assembly

The BOIE may recommend any sanctions that the Legislative Assembly of Saskatchewan has available to it to address the findings of the final investigation report. The BOIE will prepare a report within 90 calendar days of receiving the final investigation report, unless extenuating circumstances exist, to refer the matter to the Legislative Assembly of Saskatchewan. The BOIE report will include:

- a decision with respect to sanctions to be implemented;
- the name of the Member being sanctioned;
- a summary of the reasons for any conclusions and recommendations;

- a motion prepared in accordance with the *Rules and Procedures of the Legislative Assembly of Saskatchewan*. The motion shall declare that a harassment has been committed and propose a sanction for the consideration of the Legislative Assembly.

The report to the Legislative Assembly shall not disclose the identity of any of the participants except the respondent in order to respect the privacy of the complainant and other individuals who provided evidence.

Prior to referring the matter to the Legislative Assembly of Saskatchewan, the BOIE shall inform the complainant and respondent of the proposed course of action by providing a copy of the BOIE report.

Referral to the Legislative Assembly

Forthwith following the completion of the BOIE report, the Chair of the BOIE shall provide the BOIE report to the Government House Leader and Opposition House Leader. In the event that the complainant or the respondent is a House Leader, the BOIE report shall be provided to the respective Deputy House Leader.

Within five sitting days of receiving the BOIE report, the Government House Leader, in consultation with the Opposition House Leader, shall table the report and propose a motion for corrective action to the Legislative Assembly.

If the Legislative Assembly is not sitting, the Government House Leader, in consultation with the Opposition House Leader, shall table the report and propose a motion for corrective action at the earliest opportunity.

Statements regarding a matter related to this policy must respect the confidentiality of the resolution process and the privacy of the Members involved and of other individuals who provided evidence in the course of an investigation.

Following the presentation of the BOIE report to the House Leaders, if the complainant is no longer a Member, the matter is deemed withdrawn and no further action shall be taken by the Legislative Assembly.

7. Suspension of Resolution Process

The Intake Officer shall immediately suspend the resolution process if:

- (a) there are reasonable grounds to believe that a Member has committed an offence under an Act of Parliament or provincial legislation, in which case the Intake Officer shall notify the proper authorities; or
- (b) it is discovered that the conduct under investigation is also the subject of an investigation to determine if an offence under an Act of Parliament or provincial legislation has been committed or that a charge has been laid with respect to that Act.

The Intake Officer shall not continue the resolution process until the other investigation has been completed or there has been a final disposition of the charge laid with respect to that conduct at the initial stage.

8. Effect of Resignation and Dissolution of the Assembly

The processes of this policy shall not lapse by the vacancy of the complainant's seat as a result of resignation or dissolution. The resolution process will continue as long as the respondent remains a Member of the Legislative Assembly.

Any of the procedural steps of this policy may be postponed during a period of dissolution at the discretion of the Investigator and Intake Officer. The Speaker shall not be presented with a report during a period of dissolution. The dissolution of the Assembly shall not affect the standing of any case under this policy if the respondent is re-elected to the Assembly.

The authority of this policy becomes *ultra vires* if the respondent ceases to be Member of the Legislative Assembly. Consequently the investigation, or the BOIE's review of the final investigation report, shall be suspended and the case deemed withdrawn and no further action taken under this policy and shall be continued as a harassment complaint where the process was interrupted even if the member is no longer an MLA

9. Fraudulent/Malicious Complaints

Where a complaint of personal harassment or sexual harassment is not substantiated, no action will be taken against a complainant who made the complaint in good faith. Where, however, a complaint is fraudulent, malicious or otherwise made in bad faith, the complainant may be subject to any sanctions that the Legislative Assembly of Saskatchewan has available to it.

In a case where a complaint is found to be fraudulent, malicious or otherwise made in bad faith, the BOIE may apply the processes outlined in this policy for corrective action, but no report shall be made to the Legislative Assembly. The BOIE shall deal with the matter. In such cases the name of the complainant and not the respondent shall be included in the report to the Assembly.

10. Appeal

If the complainant or respondent have participated in the resolution process and believe that it has failed at some point, or that the sanctions are not consistent with the incident(s) that led to the original complaint, a request for an appeal shall be filed within 30 calendar days of receiving the BOIE report. The request for an appeal must be submitted, in writing, to the Intake Officer. It shall be signed by the Member requesting the appeal and include a description of the nature of the complaint with respect to how the resolution process failed and how the sanctions are not consistent with the incidents that led to the original complaint. The Intake Officer shall forward the request for an appeal regarding the sanction to the Ombudsman. . The Ombudsman shall decide whether an appeal is warranted. If the Ombudsman decides that an appeal is warranted, the appeal will be conducted by an individual who is selected as outlined in Article 4(c) of this

policy. No appeal with respect the facts will be allowed. The individual hearing the appeal may set aside, confirm or vary the decision as to penalty.

11. Other Legal Rights

Nothing in the policy is intended to discourage or prevent a Member or former Member from exercising any legal rights that a Member or former Member may have pursuant to any law.

For greater certainty, where a Member or former Member decides to exercise their legal rights, no action shall be taken pursuant to this policy.

For greater certainty, if the policy does not address an unusual or particular situation, the Intake Officer shall determine the appropriate course of action. This determination will be made after the Intake Officer receives the complaint but before an investigation takes place or after the investigation takes place but before the report is made.

12. Review

The Steering Committee of the BOIE will review this policy and its procedures prior to each election, or as required, and will make necessary adjustments to ensure that it meets the needs of all Members.

13. Education and Sensitivity Training

Every Member shall, within a year of becoming a member, or the implementation of this policy, be provided with the opportunity to take harassment sensitivity training.

The Legislative Assembly Service shall undertake to brief Members on the contents of this policy at the start of each new Legislature.

14. Coming into Force

The Directive establishing an anti-harassment policy for members shall come into force on the day the Legislative Assembly adopts standing orders for proceedings on board reports and subsidiary remedial motions.