

## **Appendix 1 – Harassment, Discrimination and Violence Resolution Process to the Unifor Harassment Policy for Union Events**

- 1 Every complaint of harassment, discrimination or violence must be taken seriously. Any complaint, be it formal or informal, written or verbal, that discloses a possible breach of the Policy must be acted upon in a fair, constructive, and respectful manner and as quickly as reasonably possible in the circumstances.

### **Early Resolution Efforts**

- 2 Where appropriate, an informal approach to stopping unwelcome behavior should be encouraged. Informal approaches provide the advantages of addressing the behavior quickly and empowering the parties to focus on solutions that can lead to re-establishing respectful relations and environments.
- 3 If comfortable doing so, the Complainant should make the situation known to the other person and ask them to stop the behavior. Seeking the help of a trusted union colleague or official to facilitate this conversation may be useful. Mediation with a trained mediator may also be made available where appropriate and with the agreement of all parties. The goal of mediation is to help the parties find a path towards resolution.
- 4 Not all complaints can be addressed informally. The seriousness of the allegations, the risk to the member, including any risk of possible violence and any power differential must be considered in determining whether an informal process may be appropriate in the circumstances.

### **Confidentiality**

- 5 Regardless of whether a complaint is accepted or whether it is pursued through an informal or formal resolution process, all incidents or complaints of harassment shall be kept confidential except to the extent necessary to protect the safety of staff, union members, or the public, as required to investigate the complaint or incident or to take corrective action, or as otherwise required by law.

### **Timeliness**

- 6 In accordance with the Policy, any complaint, formal or informal, must be filed within one (1) year from the date of the last incident unless there are reasonable grounds for the delay. Anyone seeking to file outside of the one (1) year limitation period must provide, in writing, a reasonable explanation for the delay.

- 7 Should the complaint be filed outside of the one-year limitation period, the reasonableness of the delay will be assessed and a written decision accepting or rejecting the filing of the complaint will be provided.

### **Contents of the Complaint**

- 8 A formal complaint must be filed in writing, by the Complainant, by a person who has directly witnessed the incident, or by a person who holds a position of authority within the union and who has been made aware of allegations of harassment, discrimination or violence.
- 9 The formal, written complaint must include:
  - i) The Complainant's name and contact information;
  - ii) The Respondent's name and contact information, if available;
  - iii) The nature of the allegations;
  - iv) The date(s) and description of the event(s);
  - v) The names of witnesses and contact information, if available.
- 10 All written complaints shall be directed to [Investigations@unifor.org](mailto:Investigations@unifor.org)

### **Carriage and Responsibility for Complaints**

- 11 If the matters complained of occur at an event of Unifor National, the national union will be responsible for the cost and conduct of the investigation and the complaint and supporting material shall be provided to the assigned Investigation Coordinator.
- 12 If the underlying events occur at a local union event, the local union is responsible for the conduct and costs of the investigation and the matter shall be transferred to the local union president or Investigation Coordinator if one has been identified.
- 13 In the event the local seeks assistance or should the local refuse to act in accordance with its own policy, should one exist, or in accordance with this policy, the National Union may provide support or direction or assume carriage of the matter, as is appropriate in the circumstances, but the Local will remain responsible for costs associated with the investigation.

### **Acknowledgment of the Complaint by Anti-Harassment Officer**

- 14 A designated national Anti-Harassment Officer shall acknowledge receipt of a complaint within three (3) working days.
- 15 Regardless of whether the local or national union assumes responsibility for the complaint, Unifor understands that those who have experienced real or perceived

harassment or discrimination will be impacted by the events and by the processes adopted. Accordingly, at the time of acknowledgement, the designated Anti-Harassment Officer may provide information to a complainant about services or material that may be of assistance, including any relevant Unifor policies and procedures, employee and family assistance programs, private counselling, and online resources from government and non-governmental sources. The Anti-Harassment Officer may refer the party to a local union advocate where appropriate and with the consent of the party seeking to file a complaint.

### **Preliminary Review of a Complaint**

- 16 Within five (5) working days from the date of acknowledgment of a complaint, the designated Anti-Harassment Officer shall advise the complainant, in writing, whether further information is needed, whether the complaint falls within the bounds of the policy and whether the matter should be referred to the local union or if the matter will proceed as a complaint with the national union.
- 17 Once a decision has been made to proceed because there is, on the face of the complaint, a potential breach of the policy, the Anti-Harassment Officer or local President, or their designate, will advise the complainant of the decision and provide contact information for the Investigation Coordinator.

### **ACCEPTANCE OF A COMPLAINT**

#### **Complaint to be Transferred**

- 18 Following the decision to proceed, the Anti-Harassment Officer will send the complaint and any supporting material to a national or local union Investigation Coordinator or to the local union president where no Investigation Coordinator has been identified.

#### **Early and Informal Resolution**

- 19 Once a decision has been made to accept a complaint for filing, the Investigation Coordinator must assess the nature and relative seriousness of the allegations and determine whether an informal resolution process may be of assistance in resolving the dispute or conflict. Where appropriate, early and informal resolution shall be offered and encouraged, but shall not be imposed without the consent of both parties.

#### **Interim Measures**

- 20 The Investigation Coordinator may make recommendations to the local union president, or the National President, or their respective designates, in respect of any interim measures that may need to be adopted to protect the physical or psychological safety of the parties or the integrity of the investigation process.

## **Complaints Against National Officers, Assistants to the National Officers and Senior Directors**

- 21 Where a complaint raises issues of sexual assault, sexual solicitation, exploitation or systemic discrimination by a National Officer, Assistant to the National Officers or Senior Director, the national union's Investigation Coordinator shall immediately refer the complaint to the National President and National Secretary Treasurer. Should these individuals be in a position of conflict, they shall recuse themselves from holding a decision-making role in respect of the carriage of the complaint. Authority for managing the matter must then fall to other members of the National Union's elected leadership team who are free from conflict.
- 22 Any complaints against any other staff member shall be immediately referred to the office of the Secretary Treasurer who shall determine whether an external investigation is required to ensure that the complaint is dealt with in a fair, neutral and competent manner.

## **FORMAL RESOLUTION PROCESS**

### **Impartial and Timely Investigation Required**

- 23 Should a complaint appear to disclose a violation of the policy, the Investigation Coordinator may consult with the National or local union before appointing an Investigator but must be respectful of confidentiality requirements when doing so.
- 24 Prior to assignments the National and/or Local unions must consider whether an external investigation is necessary to ensure that the complaint is dealt with by a neutral, fair and competent party.

### **Investigators**

- 25 The Investigator must be competent, have knowledge of applicable Unifor anti-harassment policies and procedures, human rights principles and any relevant legislation. They must also have undertaken anti-harassment and investigation training and must declare themselves free of conflict.
- 26 The Investigator must be able to conduct an investigation in a discreet and sensitive manner, understand the nature of democratic unions, be capable of assessing the information and facts before them and be able to draw impartial and independent conclusions.
- 27 An investigation may be conducted by a union member, current or former staff member of the Union, or by someone external, based on what is appropriate and

reasonable. In every circumstance where the union undertakes an investigation, the process must be fair, thorough, prompt and impartial.

- 28 The Investigation Coordinator may deal directly with the complaint should they deem it appropriate to do so.

### **Mandate for the Investigation**

- 29 The Investigation Coordinator will provide the Investigator with a written mandate that will authorize, govern and focus the activities associated with the investigation.
- 30 Investigators must adhere to the investigation mandate. Any issues that arise in the course of the investigation that fall outside of the mandate must be brought to the attention of the Investigation Coordinator who may or may not direct that the Investigator's mandate be amended.
- 31 The Investigation Coordinator will be designated by the Office of the National President or National Secretary Treasurer. Anyone acting in the role of Investigation Coordinator must possess the necessary experience, skills and training and have no conflict in respect of the complaint.
- 32 The Investigator will have no authority to conduct an investigation into a complaint, or part thereof, that has been deemed untimely.

### **Ongoing Opportunities for Informal Resolution**

- 33 At any time during the process of the investigation and until such time as the Investigation Report is provided, a complainant or a respondent may ask for informal resolution of the complaint. If all parties are agreeable, the formal investigation may be put on hold and informal resolution pursued.
- 34 At any time during the investigation, the Investigator may determine that informal resolution could appropriately resolve the complaint or conflict. In those circumstances, the Investigator shall offer the parties the opportunity to resolve the complaint informally. Agreement of both the complainant and respondent is required to proceed informally.

### **Notice of Appointment**

- 35 Within 5 working days from the date of assignment, the Investigator shall advise the parties of their appointment, the scope of the investigation and next steps.

## **Conduct of the investigation**

- 36 Every investigation is different, but every investigation must provide procedural fairness to the parties and must, at minimum, include:
- i) an opportunity for the Complainant to review the complaint to ensure the details and particulars are accurate and adequately reflected;
  - ii) a warning about the need to keep the facts of the investigation confidential;
  - iii) the provision of a summary of allegations verbally or in writing (where the matter is complex);
  - iv) an opportunity for the Respondent to address the allegations in writing;
  - v) a process that does not conflict with this policy or procedure, or any relevant piece of legislation.
- 37 Outside of the requirements in the previous paragraph, the Investigator has autonomy to conduct the investigation in any manner that they deem appropriate.

## **Timing of the Investigation**

- 38 The Investigator must make reasonable efforts to complete an investigation, including the provision of the Investigation Report, within 30 days from the date of receipt of the complaint. Should circumstances require an extension of time, the Investigator shall advise the parties, in writing, of the delay and provide a brief explanation of the reason for the delay. Except in extraordinary circumstances beyond the control of the Investigator, all investigations and Reports should be completed no later than 60 days from the date of the assignment to the Investigator.

## **Preliminary Findings of Fact**

- 39 Once the Investigator has gathered the relevant facts from each party and relevant witnesses, the Investigator should prepare a preliminary summary of the evidence provided and confirm with the individual providing the evidence, the accuracy of the summary.
- 40 The Investigator should provide the parties with the opportunity to address questions or clarify matters either verbally or in writing. Any reply must be provided within 3 working days of receipt of the Investigator's summary of evidence.
- 41 The Investigator may only incorporate additional allegations if the Investigator deems it appropriate to do so and the Investigation Coordinator has agreed to expand the mandate.

## **Summary Report**

- 42 The Investigator will provide a Summary Investigation Report that will be provided to the parties. As much as is reasonably possible, the Summary Investigation Report shall not directly or indirectly reveal the identity of persons who are participating in the investigation.

## **Final Report**

- 43 The investigator will also prepare a detailed Final Investigation Report that contains the following elements:
- i) A description of the allegations;
  - ii) A description of the investigation process followed;
  - iii) A description of the background information and evidence that supports or refutes each allegation;
  - iv) An analysis of the evidence in respect to each allegation, including findings of credibility where necessary; and
  - v) A statement as to whether the behaviour described in each allegation constitutes a breach of the Policy;
  - vi) Where requested, recommendations to address the needs of the parties and restore the functioning of a healthy and psychologically and physically safe union environment;
  - vii) If the allegations are not founded, a determination of whether the allegations were made for improper motives or in bad faith; and
  - viii) Comment on any underlying factor(s) encountered during the investigation that may have contributed to the situation or may have had a negative effect on the union environment, if asked to do so by the Coordinator of Investigations.
- 44 The Investigation Report will be submitted to the Coordinator of Investigations, along with all related supporting documents and statements from the parties and the witnesses and the complete investigation file.

## **Advising the Parties**

- 45 The Coordinator of Investigations will advise the Complainant(s) and Respondent(s) of the outcome of the investigation and steps that will be taken and will also provide a copy of the Summary Investigation Report. If corrective action is recommended, a copy of the Summary Investigation Report will be provided to the person or persons responsible for taking corrective action.

- 46 A copy of the Summary Investigation Report and of the Final Investigation Report are confidential and will be provided only to those who need to know the contents, including the person designated to manage the harassment complaint and anyone required to implement corrective action based on the results of the Investigation.

## **Corrective Actions**

- 47 It is the responsibility of the Investigation Coordinator to ensure that corrective actions and accepted recommendations designed to restore a respectful, healthy and safe environment are implemented.
- 48 Should the Investigation Coordinator, in conjunction with a designated member of the Union leadership, determine that a departure from the recommendations is warranted, an explanation of that decision will be provided to the parties, where requested.
- 49 Within 30 days of the receipt of the Investigation, the Investigations Coordinator will report to the Senior Director of Equity and Education, or their designate, advising of all steps that have been taken and any that remain outstanding, along with an explanation outlining any challenges to implementation.
- 50 Where necessary, and appropriate, the National Union will support the implementation of remedial actions to restore the functioning of a respectful, healthy and safe union environment.

## **Request for Review**

- 51 Within 14 days of receipt of the final decision and summary report, a Complainant or Respondent may seek a review of the decision by the National President. The National President may delegate the review powers to a senior member of staff who has experience with such matters or may strike an Ad Hoc National Review Committee.
- 52 Any party seeking reconsideration of a decision must provide written reasons for the reconsideration request. Rearguing facts or attempting to introduce facts that were not provided but were available at the time of the investigation are not adequate grounds for reconsideration. Disagreement with a decision is not, in and of itself, grounds for a review.
- 53 The Committee may refuse to reconsider a request for reconsideration in the absence of adequate grounds supporting the request.



- 54 Any reconsideration decision made by the National President, their designate or the Ad Hoc National Review Committee is final and binding. A copy of the decision must be provided to the Complainant and the Respondent in writing.

### **Powers of the Ad Hoc National Review Committee**

- 55 The power of the Ad Hoc National Review Committee charged with reviewing a request for reconsideration shall be limited to a determination of whether the parties were afforded procedural fairness whether the decision provides adequate reasons to allow the parties to understand the basis for the conclusions reached and whether the conclusions are reasonable.
- 56 The Ad Hoc National Review Committee is not to substitute its views for those of the Investigator or reinvestigate the complaint and must review the decision on the standard of reasonableness.
- 57 The Ad Hoc National Review Committee may make recommendations for addressing any deficiencies in the process.
- 58 Decisions of the Ad Hoc National Review Committee will be communicated in writing to the parties and to the National Union President or their designate within 7 calendar days of the date of the decision.

### **Follow Up on Decisions from the Ad Hoc National Review Committee**

- 59 Any follow up made necessary by the decision of the Ad Hoc National Review Committee shall be the responsibility of the National Union's Secretary Treasurer and/or the Senior Director of Equity and Education or their designates.

### **Retention of Documents**

- 60 The Investigations Coordinator will make every reasonable effort to ensure all records of Complaints, Investigation or Appeals are kept in a secure location for a period of 5 years. All Investigation Reports will be kept for a minimum 10-year period or until such time as the parties are no longer members, officers or employees of Unifor.

### **Revision**

- 61 The procedures outlined in this Appendix must be reviewed annually and revised as necessary to ensure parties are provided with a robust, effective and fair process.

## Definitions

**Anti-Harassment Officers:** staff members appointed by the National Union to accept and review complaints, communicate with the Complainant, offer early resolution, and advise the National Union of the filing of complaints and of the need for the assignment of an Investigator.

**Investigation Coordinator:** the person who has been assigned by the Office of the National President or Secretary Treasurer to administratively manage a harassment complaint on the part of the Union. The Coordinator will be responsible for ensuring the assignment of an Investigator, drafting the Investigator's mandate, acting as the contact person on behalf of the National Union with the Investigator, receiving the Investigation Report and following up on any recommendations made in the Report or on actions taken by the National Union.

**Local Union Investigations:** where the local union has not identified a person to be its Investigation Coordinator, and the national receives a complaint that is appropriately addressed at the local level, the complaint will be sent to the local union president.

**Personal Harassment/Bullying:** acts or commentary that could cause physical or psychological harm or isolation. Bullying usually involves repeated incidents or patterns of behaviour that intimidates, degrades or humiliates an individual or group. It is the assertion of power through aggression.

**Poisoned Environment:** means the environment is hostile or unwelcoming because of insulting, demeaning or degrading comments or actions aimed at an individual or group. (poisoned environment isn't mentioned anywhere in the Policy above)

**Informal Resolution Process:** means a confidential, voluntary, and collaborative problem-solving approach such as face to face conversation, conflict coaching, facilitated discussion or mediation that has the advantage of addressing the parties' needs, concerns and mutual interests.

**Formal Resolution Process:** means a process by which a third party investigates a complaint and makes determinations and, if applicable, recommendations for addressing or preventing harassment.