

PROCEDURE FOR HR 05: Prevention of Harassment and Discrimination

1.0 Preamble

This procedure sets out how the policies in SKG's Policy HR 05 Prevention of Harassment and Discrimination shall be put into effect.

2.0 Definitions

The terms "discrimination" and "harassment" are defined in the relevant sections of the procedure below.

"Director of Human Resources" means the senior executive appointed by SKG's board who is responsible for SKG's human resources policies and oversight of processes concerning human resources, regardless of the title of that position.

"OHSA" means the Occupational Health and Safety Act.

"SKG" means Shingwauk Kinoomaage Gamig.

3.0 Scope

3.1 Application of this procedure

This procedure and its associated policy applies to every member of the SKG community, including students, employees, volunteers, contractors, and visitors in SKG's property or facilities.

This policy applies to every aspect of the workplace environment and employment relationship, including recruitment, selection, promotion, transfers, training, salaries, benefits, and termination. It also covers rates of pay, overtime, hours of work, holidays, shift work, discipline, and performance evaluations.

This policy also applies to events that occur outside of the physical workplace such as employees' business trips or offsite social events sponsored by SKG.

The provisions of this procedure in no way affect the right of any person to exercise their rights under the Ontario Human Rights Code, within the time limits specified by that legislation.

3.2 Sexual misconduct involving students

For clarity, please note that this procedure applies in contexts where the complainant of sexual harassment is an employee of SKG.

SKG has two other policies addressing sexual harassment and misconduct:

- Conflict of Interest and Sexual Misconduct in Employee-Student Relationships

- This policy concerns conduct of employees towards students.
- Sexual Harassment and Violence Involving Students
 - This policy concerns sexual harassment and violence where both the complainant and alleged perpetrator are students.

This table explains the application of different SKG policies concerning sexual misconduct.

Complainant Respondent	Student	Employee, volunteer, or other member of SKG community
Student	ACAD 07 Sexual Harassment and Violence Involving Students	HR 05 Prevention of Harassment and Discrimination
Employee	HR 06 Conflict of Interest and Sexual Misconduct in Employee-Student Relations	HR 05 Prevention of Harassment and Discrimination

3.3 Workplace violence

This procedure does not address workplace violence.

Workplace violence is addressed by SKG's policy HR 04 Safe and Healthy Workplace and its associated procedure.

4.0 Ensuring a learning and working environment free of harassment and discrimination

The Director of Human Resources shall ensure that SKG:

- Complies with requirements set out in the Ontario Human Rights Code, the Occupational Health and Safety Act (OHSA), and other applicable legislation.
- Establishes and maintains an internal responsibility system to ensure that employees, students, and others on SKG premises are in a learning and working environment free of discrimination and harassment.

5.0 Reporting of and response to discrimination and harassment

5.1 Definition of workplace harassment

Workplace harassment is defined in the OHSA as "engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome" and includes workplace sexual harassment.

Workplace harassment can include unwelcome and/or repeated words or actions that are known or should be known to be offensive, embarrassing, humiliating, or demeaning to a worker or group of workers. It can also include behaviour that intimidates, isolates, or discriminates against a worker or group of workers in the workplace.

The OHSA defines workplace sexual harassment as:

- 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
- Making a sexual solicitation or advance where the person making it 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.

This definition of workplace sexual harassment is similar to the prohibitions on sexual harassment and sexual solicitation found in Ontario's Human Rights Code.

5.2 Definition of discrimination

For this policy, discrimination is defined as in the Human Rights Code of Ontario. Discrimination is an act, behaviour, or practice of treating a person unequally on the basis of a protected category listed as a prohibited ground for discrimination under the Human Rights Code (Ontario).

Prohibited grounds of discrimination, as of the effective date of this policy, are age, ancestry, colour, race, citizenship, ethnic origin, place of origin, creed, disability, family status, marital status (including single status), gender identity, gender expression, record of offences (in employment only), sex (including pregnancy and breastfeeding), and sexual orientation.

Under legislated standards, SKG is permitted to give preferential treatment to Indigenous persons in some circumstances.

- SKG's policy concerning recruitment gives preferential treatment to Indigenous persons in recruitment and selection for employment at SKG, and, among Indigenous persons, Anishinaabe persons.
- SKG's policy also permits it to offer preferential treatment to Indigenous persons, and among them Anishinaabe persons, for admission of students and financial support of students.

5.3 Reporting of and response to harassment and discrimination

All employees shall meet their obligation under the OHSA to report incidents of workplace harassment that are experienced or witnessed.

All employees shall report incidents of harassment involving students that are experienced or witnessed.

All employees shall report incidents of discrimination involving employees or students that are experienced or witnessed.

Students are encouraged to report incidents of discrimination and harassment that are experienced or witnessed.

The Director of Human Resources shall ensure that appropriate processes are in place to:

- Inform employees about SKG's policies and their obligations concerning discrimination and harassment,
- Encourage employees to report concerns about harassment and discrimination and inform them of the process for reporting,
- Ensure that students are informed about SKG's policies concerning discrimination and harassment and its processes to respond to reports or complaints about discrimination and harassment, and
- Investigate and respond to harassment and discrimination in a timely and effective manner.

SKG shall investigate any complaint raised by an employee or student concerning discrimination or harassment.

Every person who believes he or she has experienced harassment or discrimination, as well as every person who has been notified of a complaint against them, is advised to create and keep written notes about the events at issue, and to maintain any relevant written documentation.

5.3.1 Resolution to a complaint based on restorative justice

After a preliminary stage of investigation, the Director of Human Resources may seek resolution to a complaint based on principles of restorative justice through :

- Engaging an independent and qualified third party to pursue a response to a complaint, or
- Engaging an Elder Advisor under SKG's HR 07 Conflict Resolution policy and its associated procedure to determine a response.

The Director of Human Resources may initiate a resolution based on principles of restorative justice only if the following conditions have been met:

- Such a process would be appropriate given the nature or impact of the alleged discrimination or harassment that is the subject of a complaint;
- The terms of the restorative justice process clearly address whether and under what conditions the complainant, respondent, or SKG may cease the process and move to an investigation; and
- Both the complainant and the respondent (person alleged to have committed discrimination or harassment) have given free and informed consent to this approach.

The Director of Human Resources may halt a response based on a restorative justice approach and initiate an investigation at any time, if warranted by new information concerning the nature or impact of the alleged discrimination or harassment.

5.3.2 Investigation

Depending on the nature or impact of the alleged discrimination or harassment that is the subject of a complaint, SKG's Director of Human Resources may conduct an internal investigation or may request an independent and qualified third party to investigate.

Interim measures may be put in place during the investigation process.

The person(s) conducting the investigation will gather all relevant information from the appropriate parties (complainant, respondent, witnesses) and prepare and submit a written report summarizing the facts and findings and conclude whether there is sufficient evidence to substantiate a finding of a violation of policy or law. As appropriate, the report may also include recommendations on actions or sanctions relating to the issues in the complaint or on more general issues of workplace conflict or climate.

The respondent (person alleged to have committed discrimination or harassment) shall be given the opportunity to respond to the specific allegations raised by the employee.

Information obtained about a complaint or incident of discrimination or harassment, including identifying information about any individuals involved, shall not be disclosed unless (1) disclosure is necessary to protect the employee, investigate, take corrective action, or otherwise as required by law, or (2) the parties provide free and informed consent to disclosure.

Complainants and respondents are entitled to seek representation of their choice, including legal counsel, during any stage of the complaint resolution process, at their own expense.

5.3.3 Outcomes of a complaint resolution

Based on the findings of the resolution based on principles of restorative justice or investigation, the Director of Human Resources will decide whether the policy has been violated.

If the policy has been violated, the Director of Human Resources shall determine the appropriate consequences for the person(s) who violated the policy.

If the matter has been addressed through SKG's policy HR 07 Conflict Resolution or another resolution process based on principles of restorative justice, consequences may include steps to be taken in restoration through that process.

If the matter has been addressed through investigation, consequences may include:

- An apology
- Counselling
- Education and training
- Verbal or written reprimand
- Suspension with pay
- Suspension without pay
- Termination of employment

- Referral to academic discipline (in the case of a student)

In determining the appropriate consequences, the Director of Human Resources shall take into account the nature of the violation of the policy, its severity, and whether the individual has previously violated the policy.

Where a violation of the policy is found, the Director of Human Resources shall also take practicable steps to repair the effects of the discrimination or harassment on the complainant, and to prevent any further recurrences of harassment or discrimination within SKG.

The employee who allegedly experienced the discrimination or harassment and the respondent will be informed in writing of the results of an investigation and any corrective action taken or that will be taken by SKG to address discrimination or harassment.

While employees will be advised of the outcome of an investigation, they will not generally be advised of the details of any sanction and/or remedial action against any other party.

5.3.4 Records relating to complaints, investigation, and resolution

The Director of Human Resources shall ensure that documentation related to complaints, investigations, and resolution is collected and preserved.

Documentation to be preserved includes witness interviews, notes of meetings, evidence gathered, any investigation report, and documentation on the outcome of the investigation.

This documentation shall be securely kept apart from other personnel records.

The Director of Human Resources shall safeguard these documents at least until the conclusion of any human rights proceedings or of limitation periods related to human rights proceedings.

5.3.5 Where a complaint relates to the Director of Human Resources

If an employee makes a complaint relating to the conduct of the Director of Human Resources, the responsibilities given to the Director of Human Resources under this policy shall be carried out by the chair of the board.

5.4 Risk assessment of workplace harassment

OHSA requires an annual review of policies concerning workplace harassment and violence.

The HR 04 Procedure for Safe and Healthy Workplace addresses implementation of this requirement.

6.0 Related Policies, Procedures & Documents

HR 05 Prevention of Harassment and Discrimination

HR 04 Safe and Healthy Workplace and its associated procedure

HR 06 Conflict of Interest and Sexual Misconduct in Employee-Student Relationships and its associated procedure

ACAD 07 Sexual Harassment and Violence Involving Students and its associated procedure

Supervisor Handbook

Employee Handbook

SKG's policies and procedures may be found [here](#).

7.0 Responsible Officer

Director of Human Resources

8.0 Version history

Approved by: Director of Operations

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