

## UPDATES TO THE CODE OF PROFESSIONAL CONDUCT RELATED TO DISCRIMINATION AND HARASSMENT

The Law Society is committed to promoting and supporting equity, diversity, inclusiveness and cultural competence among all Saskatchewan firms, lawyers, and legal service providers as well as promoting access to justice.

In line with amendments to the Federation of Law Societies [Model Code of Conduct](#) following two rounds of national consultation, in April 2023, the Law Society Board approved amendments to [section 6.3](#) of the Law Society of Saskatchewan *Code of Professional Conduct* relating to issues of discrimination and harassment.

These amendments detail that lawyers must not discriminate, harass, nor sexually harass colleagues, employees, clients, or any other person nor engage or participate in reprisals. The Commentaries outline further guidance and examples to support understanding, while also reminding that these provisions are not restricted to conduct related to, or performed in, a lawyer's office or in legal practice. Overall, these amendments help educate and guide professional conduct by:

- reinforcing that lawyers have a special responsibility to advance the administration of justice, respect and uphold the principles and requirements of human rights law and workplace health and safety law, and to honour the obligations enumerated in such laws;
- addressing the ongoing problems of harassment and discrimination faced by members of the profession and public whose personal characteristics are covered by human rights protections;
- building upon the current *Code* sections to reflect contemporary understandings of discrimination and harassment law; and
- acknowledging that legal professionals must stay abreast of developments in the law, understand the adverse effects of systematic discrimination which include impacts of colonialism on Indigenous peoples, and remain aware of their own biases.

A further description of the amendments is available in the [Amendments Summary](#).

### Data-informed amendments

In addition to [national consultation](#) that recommended amendment to section 6.3, the Law Society of Saskatchewan supported and adopted these amendments in response to a number of recent studies and evidence. These studies demonstrate issues of discrimination and harassment are of concern for equity, diversity, and inclusion in the profession and impact access to justice and legal services for the public in Saskatchewan.

A 2019 articling [assessment](#) completed by students-at-law, new lawyers, principals, recruiters, and mentors, in Alberta, Saskatchewan, and Manitoba revealed that 32% of student and new lawyer respondents reported experiencing discrimination and/or harassment during recruitment and/or articling. Students also reported that they feel resources are not available to address discrimination and harassment concerns. Only 9% of students and new lawyers who experienced discrimination or harassment felt resources were available to address issues, as compared to 88% of recruiters, principals, and mentors.

Concerns were also expressed that the process to deal with discrimination and harassment negatively impacts victims. Respondents identified the following actions as beneficial:

- Educating articling students and new lawyers about resources;
- Considering ways of helping students who quit because of discrimination and harassment to find another articling position;
- Having a process to investigate reports of discrimination and harassment and disciplining the offenders; and
- Providing recognition and leadership at the executive levels of the Law Society on this issue.

These recommended actions and findings were reinforced by a 2021 [report](#) based on survey results related to equity, diversity, and inclusion among Saskatchewan lawyers and students-at-law. Half (51%) of respondents reported witnessing or experiencing a situation of discrimination impacting entry into practice and/or career advancement. Ethnic/racial and gender discrimination were most often experienced or witnessed and 7% mentioned witnessing or experiencing sexual harassment or objectification. Findings from a 2023 [roundtable](#) focused on women in the law reiterated the impact of discrimination and harassment for women in the profession.

Additionally, 82% of respondents agreed equity-deserving groups experience unconscious bias or discrimination and there was majority agreement that challenges faced by equity-deserving groups affect access to justice for Saskatchewan communities and the quality of legal service for the public.

A 2022 [national study](#) on Psychological Health Determinants of Legal Professionals in Canada also identified that “groups who perceive the most discrimination are professionals who have already taken extended health medical leave for a mental health issue such as depression or burnout, professionals living with a disability, and women. Indigenous people and legal professionals who identify as non-White also perceive that they experience discrimination, but somewhat less compared to other groups.”

The study highlighted the voice of legal professionals, with one respondent indicating: “It is important for regulators to understand that mental health is affected by discrimination, harassment and feeling like one does not belong to the profession due to one's race, gender or ethnicity. It is happening in our workplaces. It is happening in society at large. And it is happening within the profession.”

Recognition that discrimination and harassment are significant issues within society at large is evidenced by the 2021 [Canadian Legal Problems Survey](#) which highlighted that the most commonly reported legal problems include being harassed (16%) and being discriminated against (16%). Indigenous people were more likely to experience various forms of harassment and discrimination in the three years preceding the survey. Additionally, 63% of community agency respondents to a Saskatchewan [Legal Needs Survey](#) identified that cultural barriers make it difficult for individuals to access the legal supports they need.

## Conclusion

Experiencing harassment or discrimination is linked to reduced overall well-being within the profession and the public it serves. Through the amendments to the *Code of Professional Conduct*, the Law Society has provided further guidance and education in response to the data identifying discrimination and harassment as significant concerns. The legal profession is an important public institution that must uphold human rights and respond to the diversity of their colleagues as well as the public requiring their legal services to advance the administration of justice.

Lawyers are encouraged to review the [Amendments Summary](#) as well as the complete amendments to [section 6.3](#) of the *Code of Professional Conduct*.

Lawyers are also reminded that the Equity Office at the Law Society of Saskatchewan is committed to both eliminating discrimination and harassment and promoting equity in the legal profession.

A confidential email and toll-free phone line is available to assist individual lawyers, articling students and support staff who ask for help in resolving complaints of discrimination or harassment. The Equity Office can listen to complaints, assess the nature of the complaint, and inform about potential measures for dealing with the complaint. When resolution is required, complaints will be referred to an independent mediator.

For questions about establishing or maintaining a discrimination-free work environment, or questions relating to the improvement of equity and diversity in the workplace, please contact the Equity Office.

Call toll free: 1-866-444-4885

Email: [equity@lawsociety.sk.ca](mailto:equity@lawsociety.sk.ca).