

Item	6.5.1
Approved by	UOIT Board of Governors
Date approved	November 2004

HARASSMENT AND DISCRIMINATION PROCEDURES

1. GENERAL PRINCIPLES

This procedure assumes that a centralized response is necessary to ensure uniformity and fairness in dealing with complaints. It is designed, in part, to prevent harassment and discrimination by educating members of the university community as to what constitutes such behaviour. It is also intended to provide a framework, accessible to complainants, which protects their anonymity and ensures that, as far as possible, the initiation and pursuit of a complaint will not be an intimidating experience. Accordingly, the emphasis is on informal resolution, using facilitation and negotiation, save where the nature of the matter necessitates a more formal process. The university intends that the existence of this document should help create an environment that nurtures and supports the work of all faculty, staff, and students.

Commencement of proceedings in the courts under criminal or civil law with respect to the subject matter dealt with under this procedure will not necessarily affect the processing of complaints under the procedure. However, should the Ontario Civil Rights Commission begin an investigation with respect to the subject matter of a complaint being dealt with under this procedure, action under this procedure will be permanently discontinued and any new proceedings under the Harassment and Discrimination Policy in relation to the incident in question will be barred.

Any reprisal, or expressed or implied threat of reprisal, for making and pursuing a complaint under this procedure is itself considered a breach of the Harassment and Discrimination Policy. Moreover, harassment and discrimination are exacerbated where:

- a. Submission to such conduct is made or threatened, explicitly or implicitly, to be a term or condition of an individual's employment, academic status, or accreditation;
- b. Submission to, or rejection of, such conduct is used or threatened to be used as a factor in employment, academic status, grade, accreditation, or other decisions affecting an individual, or as the basis for any other form of disadvantage or reprisal.

When a complaint involving a breach of the Harassment and Discrimination Policy is made in a residence setting, those in authority are responsible for advising the complainant of her/his entitlements under the Student Rights and Responsibilities procedure, and for ensuring that the Office of Student Affairs is informed of the complaint promptly.

2. APPLICABILITY

This procedure may be used by groups as well as by individuals, and may involve complaints against one or more individuals as well as complaints against the university.

A complaint may be brought under this procedure whether the alleged harassment or discrimination occurred on or off campus, and whether it occurred during or outside working hours.

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This procedure is without prejudice to the entitlement of the university to suspend any faculty member, staff member or student where it is decided that the ongoing security of members of the community requires such action.

3. RESPONSIBILITIES OF ADMINISTRATORS AND SUPERVISORS

While every member of the university has a responsibility to be aware of human rights policies, administrators and supervisors have a special responsibility to advise persons whom they believe may have been harassed or discriminated against of the assistance available to them through the Office of Human Resources. Administrators and supervisors may include, but are not limited to, the following: faculty members, medical and counseling personnel, campus security staff and residence staff.

Moreover, such persons, without revealing the identity of the person(s) involved, may seek advice from the Human Resources Department on how to proceed in those instances where a person alleging to have been subject to harassment is unwilling report the matter. In cases of apparent systemic harassment, such persons may themselves make a complaint on behalf of those allegedly harassed or discriminated against. In situations where the interests of the university, and the protection of the members of the community require it, such persons may, with the consent of the President, take a complaint as far as a formal hearing, notwithstanding the absence of consent of the person or persons allegedly harassed.

Although most complaints made under this procedure will be made by persons who are the direct recipients of harassment or discrimination, persons who are not the direct recipients but whose working or learning environment is adversely affected by the conduct may also make a complaint under this procedure.

4. ADVISORS

Appointment and Functions

The President will maintain a roster of volunteer Human Rights Advisors, appointing a minimum of six such Advisors. This roster will include at least one male and one female faculty member and one male and one female staff member. Advisors ordinarily will be appointed for a term of two years, renewable.

Responsibilities

The primary duties of Advisors are to address complaints of discrimination and harassment using the Harassment and Discrimination Policy and this procedure and to attempt to resolve complaints at the earliest opportunity.

Assignment of Advisors

The Human Resources Department will assign an Advisor to assist any person who wishes to file a formal complaint. The Advisor will support the Complainant throughout the process when asked to do so by the Complainant.

The Department will also assign an Advisor to assist any Respondent in complying with the requirements of this procedure and in understanding his or her rights and responsibilities under it. The Advisors will support the Respondent throughout the process when asked to do so by the Respondent.

Training

The Human Resources Department will be responsible for the training of volunteer Advisors under this procedure.

Legal Assistance

Should the need arise, with the permission of the President, Advisors may, either generally, or within the context of a specific complaint, seek legal assistance on the meaning and operation of this procedure and their role and obligations under it.

Relations with the Media

In the event that, at any stage of the complaint process, a complaint attracts media attention, the appropriate Advisor shall inform the media that a policy of confidentiality precludes the university from confirming or denying the existence of a complaint until the matter has been resolved.

5. STAGES

All persons who allege discrimination or harassment under the provisions of the Harassment and Discrimination Policy shall be advised to contact the Human Resources Department. This provision will ensure that all such persons have access to a common source of consistent and expert advice and that reliable data may be gathered on the incidence of discrimination and harassment in the university community. In the event that a complainant is reluctant to contact the Department, the person to whom the alleged harassment or discrimination has been reported must report the case to the Human Resources Department without identifying either the complainant or the alleged offender, and ask for advice on procedure and policy to effect a solution, if a solution is necessary.

Informal Resolution without a Written Complaint

Any member of the university community may seek informal assistance or advice from the Human Resources Department, who, as a first step, shall ensure that this person receives a copy of the Harassment and Discrimination Policy and this procedure. At this time, the Human Resources Department will attempt to make a determination as to the nature of the complaint. All such consultations will be confidential unless otherwise provided by law.

With the consent of the complainant, the Human Resources Department may then take any steps deemed appropriate in order to reach a resolution of the complaint, keeping in mind the principles of natural justice at all times. At this time, the respondent will be notified that a complaint has been initiated and that he/she will be entitled to at least 10 working days to seek advice before any meeting to discuss the allegations with the Human Resources Department. No other party will be informed of the identity of the respondent unless and until the respondent has been informed of the complaint, and given an opportunity to respond.

If, during the informal stages of complaint resolution, the Human Resources Department determines that the complaint is frivolous, vexatious or entirely without factual basis, the Department will advise the complainant and the respondent of this fact in writing, and will provide reasons for this conclusion. The Human Resources Department will also advise the complainant that should the matter be pursued to fact finding or external agencies and come to the same conclusion, the complainant could be subject to disciplinary actions under the Harassment and Discrimination Policy.

After consulting with the Human Resources Department and/or attempting Informal Resolution without a Written Complaint, the complainant may decide to take no further action, or to proceed with the formulation of a written complaint.

Informal Resolution with a Written Complaint

If, after an attempt has been made to resolve the matter informally, a complainant wishes to make a formal complaint, it shall be initiated by the complainant filing with the Human Resources Department written details of the alleged harassment or discrimination, including dates, times, places, and names of individuals involved, as well as an indication of any specific remedy being sought.

At this time, the Complainant will be assigned a volunteer Adviser who will assist in the preparation of this document and, in particular, will ensure that the Complainant has identified the appropriate Respondent

or Respondents. In the case of complaints against the university, the Respondent will be the President as representative of the university, while in complaints against one of the university's operating units or any group or society, it will be the Dean, Chair, or Director. The Adviser will also respond to requests from the Complainant for information about the process.

A written complaint shall be submitted promptly, no later than 3 months from the last date of the alleged harassment or discrimination. An extension of up to 3 months may be granted by the Human Resources Department, or another university officer where appropriate, upon written request.

At this time, the respondent will also be assigned a volunteer Advisor, who will assist the Respondent in the preparation of a response to the complaint. The Respondent shall be provided, in a timely way, with a copy of the complaint, disclosure of all material facts relevant to the complaint, and an opportunity to respond orally or in writing to the written complaint. The Complainant must also be provided with ongoing disclosure of the particulars of the complaint, as they become known.

Upon receipt of a written complaint, the Complainant's Advisor shall determine whether the Complainant wishes first to proceed by way of the Informal Resolution with a Written Complaint or to proceed directly with the Formal Resolution procedure.

If the complainant elects to proceed by way of Informal Resolution with a Written Complaint, the Advisor will discuss the written complaint and any response with the Complainant and with the Respondent, and with the Respondent's Advisor, with a view to reaching a resolution acceptable to all parties.

It is expected that Informal procedures shall be conducted at a reasonable pace, but shall not normally extend past 60 days from submission of the written complaint.

Once the procedure of Informal Resolution with a Written Complaint is initiated by the Complainant, and once the Respondent has been notified of the complaint and has been given a chance to respond to it, the Complainant Advisor, after consultation with the Complainant, may contact persons with authority over the Respondent, or with jurisdiction over the place or context in which the alleged harassment or discrimination occurred.

If a resolution is achieved through informal procedures, a resolution report prepared by the Complainant's Advisor shall be signed by the Complainant and the Respondent. Should the resolution include an action or remedy by the university, that aspect of the resolution report must also be agreed to and signed by both parties and all parties if the action or remedy is required by the university.

Should the Complainant's Advisor determine that the possibility of reaching a resolution through informal procedures has been exhausted, both the Complainant and the Respondent shall be informed in writing within 5 working days of that determination.

Formal Resolution with a Written Complaint

At any time prior to fact finding, the Complainant's and Respondent's Advisers may continue to attempt to resolve the complaint, with the agreement of the Complainant, and with the assistance of the appropriate supervisor, unit head, or senior administrator. Any Adviser who chooses to undertake such critical intervention shall notify the Human Resources Department of this fact.

If a complaint has reached the stage of a formal hearing, the Respondent is entitled to a specific disposition of the issue, or where the complaint is withdrawn after a formal hearing has begun but before it has concluded, to a dismissal of the complaint.

The Formal Resolution process consists of three stages:

Stage 1: Documentation

Is the exchange of documentation in writing which shall include the complaint, the Respondent's response to the complaint, and the Complainant's reply.

Stage 2: Mediation

The parties may jointly request that a mediator be appointed to attempt to resolve the matter prior to proceeding to the formal hearing. This step may be bypassed if one or both parties wish to move directly to fact finding.

If both parties wish to engage in mediation for the purposes of resolving the matter in dispute, a joint request will be made to Human Resources. Human Resources will appoint a mediator who will meet with the parties and attempt to effect a resolution. In the event no resolution is achieved within 30 working days, a fact finder will be appointed by the university. The mediation time limits may be extended subject to the mutual agreement of the complainant and respondent.

Stage 3: Fact Finding

The university through Human Resources shall appoint a fact finder within 10 working days of written notification to proceed at the request of either party. All parties will be notified in writing. The fact finder who has been trained on proper investigation procedures will be appointed to:

- a. determine whether a violation of university Harassment and Discrimination Policy has occurred; and
- b. determine who, if anyone has violated the Policy.

For the purposes of inquiry, the fact finder will have all documents, statements and access to person(s) and other information or materials which the parties to the complaint wish to present. In addition, the fact finders may request further documents or material during the course of their investigation with respect to the complaint. The fact finder report shall go to the President (or their designate) and copies of the report will be forwarded to all parties included. A written response to the report will be provided to all parties from the President (or their designate) within 10 working days of receiving the report to bring closure to this matter. If in the event that a resolution requires disciplinary action parties will be advised, however due to confidentiality precise details of any action taken will not be released publicly.

6. REPRISALS

Individuals have the right to file a complaint of harassment and/or discrimination and participate in a resolution process by the university. Anyone who subjects an individual to reprisals will be subject to investigation by the Director, Human Resources or designate and may lead to disciplinary action.

7. RIGHTS TO SEEK RESOLUTION OUTSIDE THE UNIVERSITY

This procedure is to ensure that the university, its faculty and staff, students, board members, contractors and visitors comply with the university Harassment and Discrimination Policy. However, it does not preclude any individual from seeking other options available, such as the Ontario Human Rights Commission, the Ontario/Federal Courts and any other public or professional agency. If in the event an individual elects to proceed outside of the university, then the aforementioned process for internally resolving complaints will not be utilized.

8. COUNSELING

All parties will be encouraged to obtain counseling, recognizing the serious impact that harassment and discrimination has on an individual's psychological well-being. The university will assist in any way deemed reasonable at the request of either party.