

University of
Ontario Institute of
Technology logo

Respectful Campus Policy

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Framework category	Legal, Compliance and Governance
Approving authority	Board of Governors
Policy owner	General Counsel
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Purpose

1. The Respectful Campus Policy (the “Policy”) outlines Ontario Tech University’s commitment to promote and sustain a respectful and inclusive campus in accordance with the Ontario Human Rights Code (the “Code”), the Accessibility for Ontarians with Disabilities Act, and the Occupational Health and Safety Act (OHSA). The purpose of the Policy is to ensure the campus community is familiar with their various rights, roles, responsibilities and obligations as they relate to preventing and responding to all forms of Harassment and Discrimination.

Definitions

2. For the purposes of this Policy and associated procedures, the following definitions apply:

“**Barriers**” include attitudes (stereotypes or prejudices), policies, practices, rules and designs that prevent full participation of individuals or groups on the basis of a Protected Ground.

“**Complainant**” refers to an individual who has filed a Report regarding an alleged breach of this policy.

“**Discrimination**” is a distinction, without lawful justification, whether intentional or not, which has the effect of denying benefits to, or otherwise disadvantaging, an individual on the basis of a Protected Ground (defined below). Discrimination may involve direct actions that

are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but have the effect of disadvantaging one or more groups of people.

"Discriminatory Harassment" means engaging in a course of vexatious comment or conduct based on any Protected Ground, that is known or ought reasonably to be known to be unwelcome. Discriminatory Harassment may include, for example, taunting or mocking someone's race, ridiculing an individual's disability or targeting others with sexual, gender-based or homophobic slurs.

"Disrespect" is behavior that falls short of Harassment, but nevertheless has harmful impacts on the campus environment, e.g. rude, inconsiderate and passive aggressive behavior. Disrespect, if left unaddressed, can escalate to Harassment or Discrimination.

"Duty to Accommodate" refers to the obligation to eliminate the disadvantage, to the point of undue hardship, caused by barriers that exclude individuals or groups protected under the Code from participating in all aspects of their employment, academic endeavors, or use of facilities and housing on campus. Failure to meet the Duty to Accommodate is a form of discrimination. For more on the Duty to Accommodate see the University's Accommodation Policy.

"Employee" means job applicants and individuals performing services directly on the University's behalf, including administrative staff members, Faculty, volunteers and contract employees. Students who are employed during the course of their studies, are "Employees" for the purposes of this Policy when they are engaged in employment activities, but not otherwise.

"Faculty" includes a Faculty Member at Ontario Tech University, and includes those with both limited term and indefinite term appointments, as well as those with paid, unpaid and honorific appointments. For greater certainty, "Faculty" also includes visiting scholars and emeritus professors.

"Harassment" is the term used in this policy instrument to represent all forms of harassment: Discriminatory Harassment, Workplace Harassment and Sexual Harassment.

For greater certainty, Harassment is objectionable and unwanted behaviour that is verbally abusive, vexatious or hostile, that is without reasonable justification, and that creates a hostile or intimidating environment for working, learning or living. Harassment may be intentional or unintentional. While harassment usually consists of repeated acts, a single serious incident that has a lasting harmful effect may also constitute harassment.

Harassing behaviour includes, but is not limited to cumulative demeaning or intimidating comments, gestures or conduct; verbal aggression or yelling; bullying; threats to a person's

employment or educational status, person or property; persistent comments or conduct, including ostracism or exclusion of a person, that undermines an individual's self-esteem so as to compromise their ability to achieve work or study goals; abuse of power, authority or position; sabotage of a person's work; humiliating initiation practices; hazing; calling someone derogatory names; spreading of malicious rumours or lies; or making malicious or vexatious complaints about a person.

Harassment does not include the exercise of appropriate managerial or supervisory direction, including performance management and the imposition of discipline; constructive criticism; respectful expression of differences of opinions; reasonable changes to assignments or duties; correction of inappropriate behaviour; interpersonal conflict; instructional techniques such as irony, conjecture, and refutation, or assigning readings or other instructional materials that advocate controversial positions; and single incidents of thoughtless, petty or foolish words or acts that cause fleeting harm.

"JHSC" means the Joint Health & Safety Committee(s) at Ontario Tech University.

"Mediation" is a structured process in which parties in dispute are assisted by a third-party to engage in dialogue and attempt to arrive at a mutually agreeable resolution. Mediation is a voluntary process and can only proceed if all parties involved agree to participate.

"Microaggression" means a comment or action that negatively targets a group based on a Protected Ground (e.g. a racist, sexist or homophobic comment). Microaggressions may be intentional or accidental, but are nonetheless harmful and stigmatizing to a certain group of people. If allowed to go unchallenged, Microaggressions may escalate to Harassment and/or Discrimination

"Person(s) of Authority" include, for the purposes of this policy and related procedures, any person who has charge of a workplace, authority over another Employee or authority in the administration of education, including supervisors, managers, senior management and Faculty leadership (e.g. Deans, Associates Deans, etc.).

"Poisoned Environment" is a form of indirect Discriminatory Harassment. It occurs when comments or conduct (including comments or conduct that are condoned or allowed to continue when brought to the attention of a Person of Authority), ridicule or demean a person or group based upon a Protected Ground. The comments or conduct need not be directed at a specific person, and may be from any person, regardless of position or status.

"Protected Ground(s)" are the grounds contained in the Ontario Human Rights Code under which individuals are protected against discrimination and harassment. All University Members are protected under the following Grounds: "race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression,

age, marital status, family status and disability.” Employees are additionally protected under the ground “record of offences.”

"Report" refers to information about Harassment and/or Discrimination that is reported under the applicable procedures.

"Reprisal" includes retaliation, coercion, dismissal, threats or intimidation of anyone who in good faith: raises complaints or concerns, exercises their rights, or participates in a remedial process under this Policy.

"Respect" refers to a standard of interpersonal communication and behaviour characterized by self-restraint and consideration for others.

"Respondent" refers to any party who is alleged to have engaged in a breach of this policy.

"Sexual Harassment" means,

- 2.1 engaging in a course of vexatious comment or conduct 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
- 2.2 making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual Harassment includes but is not limited to, sexually suggestive or obscene remarks or gestures, negative stereotypical comments based on gender, sex or sexual orientation, gender identity and gender expression.

"Sexual Misconduct" for the purposes of this policy and related procedures, refers to Sexualized or intimate behaviour by Employees in relation to a Student that is contrary to University Policy. Sexual Misconduct includes, for example, behaviours that fall within the definition of Sexual Harassment and Student Sexual Violence and also includes an employee's failure to disclose to a Supervisor an intimate relationship with a Student when required under the University's Ethical Conduct Policy.

"University Member" means any individual who at the time of the alleged Policy violation:

- is employed by the University or holds an appointment with the University, including paid, unpaid and/or honorific appointments (**"Employee"**);
- is registered as a student, in accordance with the academic regulations of the University (**"Student"**); and/or

- Is otherwise subject to University policies by virtue of the requirements of a specific policy (e.g. Booking and Use of University Space) and/or the terms of an agreement or contract.

"Workplace" means any place where Employees engage in any facet of employment activity (e.g. recruitment, training, evaluation and development), including employment activities online, outside the normal place of work, and employment activities that occur outside of normal working hours.

"Workplace Harassment" means,

- 2.1 engaging in a course of vexatious comment or conduct against an Employee in a workplace that is known or ought reasonably to be known to be unwelcome, and/or
- 2.2 Workplace Sexual Harassment - defined as Sexual Harassment against an Employee in the workplace.

Scope and authority

3. The University's General Counsel is the Policy Owner. The Policy Owner is responsible for overseeing the implementation, administration, interpretation and application of this Policy.
4. The Policy Owner will ensure the Policy is reviewed as often as is necessary, and in any event, at least annually, in accordance with the University's Policy Framework and relevant Collective Agreements. The JHSC will be consulted on substantive revisions to this Policy.
5. This Policy applies to all University Members in all aspects of their engagement with the University.
6. Ontario Tech University has a [Student Sexual Violence Policy \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/student-sexual-violence-policy-and-procedures.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/student-sexual-violence-policy-and-procedures.php), which sets out a framework for ensuring that students who experience sexual violence are directed to appropriate supports and services and that includes a set of procedures that are completely student-driven; meaning students decide if they want to file a formal report or to participate in resolution options. Sexual Harassment, as defined under this policy is also defined as Student Sexual Violence when perpetrated by or against a student. In the event that a student alleges sexual violence against an Employee or an employee alleges sexual harassment by a student, all of the rights, roles, responsibilities and obligations established under the Student Sexual Violence Policy will apply to the Student and this Policy and its related procedures will be applied to Employees.
7. This Policy and its corresponding Procedures do not override or diminish the rights provided to Employees under applicable Collective Agreements, including the right to academic

freedom afforded to Faculty. Collective Agreements will supersede this Policy to the extent there is a conflict.

8. This Policy does not preclude University Members from pursuing resolution through external resources and processes, including those offered by the Human Rights Legal Support Centre, the Human Rights Tribunal of Ontario and the Ontario Labour Relations Board.

Policy

9. The University promotes a campus environment that is equitable, inclusive and accessible, and does not tolerate, ignore or condone Discrimination or Harassment by or against anyone.
10. The University is committed to providing a campus environment in which all University Members are treated with dignity, and to fostering a climate of understanding and mutual respect. Excellence in the university community is fostered by promoting the freest possible exchange of information, ideas, beliefs and opinions in diverse forms, and it necessarily includes dissemination and discussion of controversial topics and unpopular points of view. However, Freedom of expression (<https://usgc.ontariotechu.ca/policy/freedom-of-expression-policy.php>) and freedom of inquiry must be exercised responsibly, in ways that demonstrate active concern and respect for others, including their ability to participate meaningfully in the exchange of information, ideas, beliefs and opinions (refer to the University's Freedom of Expression Policy (<https://usgc.ontariotechu.ca/policy/freedom-of-expression-policy.php>)).
11. The University will maintain a respectful campus environment in which the human dignity of each individual is valued, and the diverse perspectives, ideas and experiences of all members of the community are able to flourish. While misunderstandings and conflicts will occur in a complex, demanding and diverse campus environment where collaboration is essential to success, early and informal approaches to resolution should be sought whenever possible and appropriate.
12. To promote a respectful campus environment:
 - 12.1 The University will ensure that procedures are in place for the prevention of, and response to Harassment, Discrimination and other breaches of this policy.
 - 12.2 The University will provide information, instruction and assistance to University Members with respect to Harassment and Discrimination.
 - 12.3 The University will provide Persons of Authority with information and instruction that will enable them to recognize, assess and address Harassment and Discrimination, and to understand how to respond appropriately when such incidents are alleged.

- The University will also provide Persons of Authority with information and instruction that will enable them to effectively and quickly address disrespectful behavior, Microaggressions and any other behaviours that negatively impact group cohesion.
- 12.4 Any University Member who believes they have been harassed or discriminated against, or have witnessed Harassment or Discrimination, is expected to make good faith efforts to resolve their concerns depending on the circumstances, and/or Report the situation in a timely manner.
 - 12.5 The University will administer the processes set out in applicable procedures responding to Reports fairly and promptly, with adequate regard to the unique circumstances of each particular case, and in a manner that prioritizes the dignity and privacy of individuals involved.
 - 12.6 Where applicable and appropriate, the University will make available informal dispute resolution processes such as Mediation in an attempt to resolve disputes and underlying conflict at the heart of a Report.
 - 12.7 The University will inform and update Complainants, Respondents and relevant Persons of Authority (as appropriate) about the status of dispute resolution processes as they progress.
 - 12.8 University Members are protected against Reprisal for submitting a Report in good faith, or for participating in a related dispute resolution process. A University Member who believes they have been penalized for submitting a Report in good faith, or for participating in a related investigation, may pursue the allegation of Reprisal by submitting a Report, and/or may pursue a Reprisal complaint through external processes.
 - 12.9 Reprisal protection does not apply to a University Member who submits a Report that is determined to be frivolous or vexatious, or who exhibits bad faith and/or refuses to cooperate in the course of an investigation; each of which are considered breaches of this policy.
 - 12.10 The University will respect the privacy of individuals involved in Reports and investigations, ensuring information about a Report is not disclosed, except to the extent necessary to investigate, take corrective action, implement measures to protect the health and safety of University Members and/or restore the learning/work environment, or as otherwise required by law.
 - 12.11 Personal Information collected under this Policy will be used only for the purposes of administering this Policy, and will be disclosed only on a need-to-know basis, to the extent disclosure is required to fulfill the University's legal obligations under the *Human Rights Code*, the *Occupational Health & Safety Act*, and any other applicable law and/or legal obligations, including any applicable collective agreement. Subject to applicable law, Personal Information collected, used and

disclosed under this Policy will otherwise be kept confidential, and will be stored and disposed of in accordance with *Freedom of Information and Protection of Privacy Act* and Ontario Tech University's *Records Management Policy*.

- 12.12 University Members who engage in Harassment and/or Discrimination, Reprisal or other breaches of this policy will be held accountable and may be subject to disciplinary measures, up to and including termination of employment or academic expulsion.

ROLES AND RESPONSIBILITIES

13. All University Members

- 13.1 Have a shared responsibility for maintaining a respectful environment that is free from Harassment and Discrimination.
- 13.2 Are responsible for familiarizing themselves with this Policy and related procedures;
- 13.3 Will refrain from engaging in Harassment, Discrimination, Sexual Misconduct, acts of Reprisal or other breaches of this policy.
- 13.4 Will build and maintain positive and productive relationships and demonstrate Respect in their interactions.
- 13.5 Will work cooperatively and constructively to resolve conflicts they encounter and seek assistance from a Person of Authority, as appropriate, regarding any escalating conflict they are unable to resolve themselves.
- 13.6 Will complete all required Discrimination and Harassment instruction and training within established timelines
- 13.7 Will exercise rights under this Policy in good faith using prescribed channels. For more information on reporting Harassment and Discrimination, refer to the procedures for [Employees \(procedures-to-prevent-and-address-discrimination-and-harassment-by-or-against-employees.php\)](#) and [Students \(procedures-to-prevent-and-address-discrimination-and-harassment-by-or-against-students.php\)](#).
- 13.8 Will participate in and cooperate with the Reporting Process and/or any related investigation, including respecting confidentiality obligations.
- 13.9 Will comply with the corrective measures imposed by the University under this Policy, subject to relevant collective agreements and other appeal rights.

14. Persons of Authority

Persons of Authority are responsible for supporting Ontario Tech University in its duty to create and maintain a respectful environment that is free from Harassment and Discrimination. Therefore, Persons of Authority have additional obligations in addition to the expectations for all University Members (above). Persons of Authority:

- 14.1 Will cultivate a respectful and inclusive environment where people feel safe to raise concerns;
- 14.2 Will ensure expected standards under this Policy are adhered to, including addressing and resolving Microaggressions and other disrespectful behavior should they occur;
- 14.3 Will lead by example, acting with Respect and modelling positive relationship building and constructive conflict resolution skills in dealings with all University Members, and in particular, those under their authority;
- 14.4 Are responsible for ensuring University Members under their authority are aware of this Policy and its associated procedures;
- 14.5 Will avoid the appearance of favoritism and unfairness by following and promoting adherence to evidence-based decision-making and the principles of non-Discrimination outlined in this Policy;
- 14.6 Will consider seriously each incident, concern or Report brought forward by taking immediate action to stop any Discrimination, Harassment or other inappropriate behavior, whether the subject of a formal complaint or not, by following policies and procedures to the extent necessary to ensure compliance (note: A Person of Authority cannot agree “to do nothing,” even when that is requested by a University Member);
- 14.7 Will inform the Human Rights Office about all activities related to Discrimination and Harassment or other concerns and Reports related to this Policy; and,
- 14.8 Will cooperate with the Human Rights Office to implement recommendations and restore areas under their authority that have been disrupted by alleged or actual Policy violations, or complaint resolution processes.

15. **Human Rights Office**

- 15.1 The Human Rights Office Is responsible for the interpretation and administrative direction of this policy and its associated policies and procedures to ensure their compliance with regulatory requirements and will take primary responsibility for updating related procedures applicable to Employees and Students, ensuring that all related procedures are reviewed as often as is necessary in consultation with all appropriate departments.
- 15.2 The Human Rights Office will oversee dispute resolution processes, determine needs and engage specialist support, as necessary, for investigation, fact finding, Mediation or other interventions required to restore the campus to a positive and productive environment, including:
 - a. receiving and responding to Reports from all University Members while ensuring Reports are responded to appropriately using informal and formal

dispute resolution methods in a timely and equitable manner, as outlined in this Policy and in related procedures;

- b. ensuring the appropriate departments and/or individuals are advised of a Report, where appropriate; and,
- c. ensuring the outcome of an investigation under this Policy, is communicated in writing to Complainant(s), Respondent(s) and relevant Persons of Authority to support corrective and restorative measures.

15.3 The Human Rights Office is also responsible for:

- a. ensuring that copies of this Policy and related procedures are posted on a University website; and,
- b. Submitting an Annual Report to the Board of Governors about statistics and trends in human rights complaint activities and other program initiatives

16. Human Resources

16.1 Human Resources is responsible for the following compliance obligations under the *Occupational Health & Safety Act*

- a. providing Employees with appropriate information and instruction with respect to Workplace Harassment, including notifying them of this Policy and its related procedures;
- b. ensuring all Persons of Authority are provided with information and instruction that will enable them to recognize, assess and address Workplace Harassment in their respective workplaces, and will ensure Persons of Authority are aware of this Policy and related procedures;
- c. ensuring that copies of this Policy and employment-related procedures are posted on the established health and safety bulletin boards where it is likely to come to the attention of Employees; and,
- d. ensuring the corrective actions taken as a result of an investigation (if any), are communicated in writing to Complainant(s) and Respondent(s) who are Employees;

16.2 Human Resources is also responsible for:

- a. providing Employees and Persons of Authority with appropriate information and instruction with respect to Discrimination and Discriminatory Harassment, including notifying them of this Policy and its related procedures;
- b. Assisting Persons of Authority, in consultation with the Human Rights Office, to address Microaggressions and other disrespectful behaviors that occur in the employment context; and,
- c. Assisting Persons of Authority to implement corrective and restorative

measures in areas under their authority that have been disrupted by alleged or actual Policy violations, or complaint resolution processes.

17. Student Life

17.1 Student Life is responsible for:

- a. Providing Students with appropriate information with respect to Discriminatory Harassment and Discrimination, including notifying them of this Policy and its related procedures; and,
- b. Assisting Persons of Authority, in consultation with Human Resources and/or the Human Rights Office, to address Microaggressions and other disrespectful behaviors that occur in the academic or on-campus housing context.

Monitoring and review

18. This Policy will be reviewed as necessary and at least every year. The University's General Counsel, or successor thereof, is responsible to monitor and review this Policy.

Relevant legislation

19. Human Rights Code, R.S.O. 1990, c. H.19

Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005

Occupational Health and Safety Act, R.S.O. 1990, c O.1, as amended

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c F. 31

Related policies, procedures & documents

20. 20.1 Academic Accommodation for Students with Disabilities [[Procedures \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/procedures-for-academic-accommodation-for-students-with-disabilities.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/procedures-for-academic-accommodation-for-students-with-disabilities.php)]

Access to Information and Protection of Privacy Policy

Accessibility [[Policy \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/accessibility-policy.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/accessibility-policy.php)]

Accessible Customer Service [[Policy \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/accessible-customer-service-policy.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/accessible-customer-service-policy.php)]

Accommodation for Employees and Job Applicants with Disabilities [[Procedures \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/procedures-for-accommodating-employees-and-job-applicants-with-disabilities.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/procedures-for-accommodating-employees-and-job-applicants-with-disabilities.php)]

Change of Gender [[Policy \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/change-of-gender-policy.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/change-of-gender-policy.php)]

Exempt Academic Staff [Policy]

Exempt Academic Staff Employment (Deans, Associate Deans and Teaching Staff Governors [Procedures]

Freedom of Expression [Policy]

Limited Term Academic Associates [Procedures]

Emergency Management Plan and Procedures

Fair Processes Policy

Non-Academic Staff Policies

Student Sexual Violence Policy and Procedures

Procedures to Prevent and Address Discrimination and Harassment by or Against Employees

Procedures to Prevent and Address Discrimination and Harassment by or Against Students

Records Management Policy

Joint Health and Safety Committee Terms of Reference

Occupational Health and Safety Management System

Student Conduct Policy

Medical Cannabis Use by Students [[Procedures \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/procedure-for-on-campus-medical-cannabis-use-by-students.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/procedure-for-on-campus-medical-cannabis-use-by-students.php)]

Service Animals [Procedures]

Use of Memory Aids by Students with Disabilities [[Directives \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/directive-for-use-of-memory-aids-by-students-with-disabilities.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/directive-for-use-of-memory-aids-by-students-with-disabilities.php)]

Use of Audio Recording of Lectures by Students with Disabilities [[Directives \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/directive-for-use-of-audio-recording-of-lectures-by-students-with-disabilities.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/directive-for-use-of-audio-recording-of-lectures-by-students-with-disabilities.php)]

Procedures for Accommodating Employees and Job Applicants with Disabilities

Procedures for Academic Accommodation for Students with Disabilities

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Procedures to Prevent and Address Discrimination and Harassment by or Against Employees

Classification number	LCG 1107.02
Parent policy	Respectful Campus Policy
Framework category	Board
Approving authority	Senior Leadership Team
Policy owner	General Counsel
Approval date	April 22, 2021
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Purpose

1. The purpose of this procedure is to establish a dispute resolution framework for the prevention and handling of Employee-based Reports of Harassment, Discrimination and/or Reprisal; ensuring the University effectively addresses and responds to these Reports consistent with legislative obligations.

Definitions

2. For the purposes of these Procedures the following definitions apply:

“**Administrative Fairness**” refers to the following set of principles used in the University's investigation and decision-making processes:

- The Complainant, if any, is given a full and fair opportunity to raise allegations and provide relevant and material evidence in support of those allegations;

- The Respondent knows what the allegations are, receives enough information to provide a meaningful response, and is given a full and fair opportunity to provide relevant and material evidence responding to the allegations;
- The parties receive adequate notice of the nature of the proceedings and of the issue to be decided;
- The decision-maker is required to be impartial and free from bias;
- The decision maker is required to consider all of the relevant information and evidence before them, taking into consideration the circumstances of the particular matter, including its complexity and the requirements of fairness and due process;
- The decision-making processes run in a timely fashion;
- The complaint parties may have a support person and/or representation during dispute resolution meetings; and
- The parties are provided the reasons for the decision.

"Balance of Probabilities" means an investigative standard that must be met to determine whether a violation of the policy has occurred based on a finding that "it was more likely than not" that the offence at issue was committed by the Respondent. This is a lower standard than beyond a reasonable doubt, but more than mere suspicion.

"Complainant" refers to an individual who is alleged to have experienced Discrimination, Harassment and/or Reprisal.

"Discrimination" is a distinction, without lawful justification, whether intentional or not, which has the effect of denying benefits to, or otherwise disadvantaging, an individual on the basis of a Protected Ground (defined below). Discrimination may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but have the effect of disadvantaging one or more groups of people.

"Discriminatory Harassment" means engaging in a course of vexatious comment or conduct, against a University Member in the course of employment or receipt of service, based on any Protected Ground, that is known or ought reasonably to be known to be unwelcome. Discriminatory Harassment may include, for example, taunting or mocking someone's race, ridiculing an individual's disability or targeting others with sexual, gender-based or homophobic slurs.

"Employee" means job applicants and individuals performing services directly on the University's behalf, including administrative staff members, Faculty, volunteers and contract employees. Students who are employed during the course of their studies, are "Employees" for the purposes of this Policy when they are engaged in employment activities, but not otherwise.

“Extenuating Circumstances” means circumstances outside of the investigator’s control that result in delays in the dispute resolution processes described in this procedure. Extenuating circumstances include, but are not limited to, having multiple witnesses, difficulty in scheduling interviews, availability of resource persons or materials, time of year, involvement of law enforcement or existence of a judicial hearing, or other circumstances that may arise through the course of the investigation.

“Faculty” includes a Faculty Member, or previous Faculty Member, at Ontario Tech University, and includes those with both limited term and indefinite term appointments, as well as those with paid, unpaid and honorific appointments. For greater certainty, “Faculty” also includes visiting scholars and emeritus professors.

“Harassment” Is the term used in this policy instrument to represent all forms of harassment: Discriminatory Harassment, Workplace Harassment and Sexual Harassment.

“Interim Measures” mean temporary measures designed to prevent additional acts of Harassment or Discrimination and/or to protect the safety of the Complainant or others. Interim Measures are instituted at any point following a Report and prior to a determination being made under this Policy. Interim Measures take into consideration the severity of the allegations and the varying risks associated with the potential for subsequent acts of Harassment or Discrimination. Examples of interim measures include, but are no limited to, transfer to a different work location, administrative leave, and no contact orders.

“Investigation” refers to a review by the University into alleged breaches of Policy.

“Investigator” refers to an individual assigned under this Policy to complete an Investigation, and who has the required training and experience to conduct a fair and objective Investigation.

“Mediation” is a structured process during which parties in dispute are assisted by a third-party to discuss a dispute and attempt to arrive at a mutually agreeable resolution. Mediation is a voluntary process and can only proceed if all parties involved agree to participate. Depending on the circumstances, mediation may result in a signed agreement summarizing the agreed upon terms of settlement.

“JHSC” means the Joint Health & Safety Committee(s) at Ontario Tech University.

“Person(s) of Authority” include, for the purposes of this Procedure, any person who has charge of a workplace, authority over another Employee or authority in the administration of education, including supervisors, managers, senior management and Faculty leadership (e.g. Deans, Associates Deans, etc.).

"Protected Ground(s)" are the Grounds contained in the Ontario Human Rights Code under which individuals are protected against discrimination and harassment. All University Members are protected under the following Grounds: "race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status and disability.," Employees are additionally protected under the ground "record of offences."

"Report" refers to a reported violation of the Respectful Campus Policy made by or against a University Employee.

"Reprisal" includes retaliation, coercion, dismissal, threats or intimidation of anyone who in good faith: raises complaints or concerns, exercises their rights or participates in a remedial process under the Respectful Campus Policy.

"Respondent" refers to any party who is alleged to have engaged in a breach of the Policy.

"Sexual Harassment" means,

- a. engaging in a course of vexatious comment or conduct 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
- b. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual Harassment includes but is not limited to, sexually suggestive or obscene remarks or gestures, and negative stereotypical comments based on gender, sex or sexual orientation, gender identity and gender expression. For the purposes of this Procedure the term "Sexual Harassment" includes incidents of [Student Sexual Violence \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/student-sexual-violence-policy-and-procedures.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/student-sexual-violence-policy-and-procedures.php) involving an Employee.

"Sexual Misconduct" for the purposes of this procedure, refers to Sexualized or intimate behaviour by Employees in relation to a Student that is contrary to University Policy. Sexual Misconduct includes, for example, behaviours that fall within the definition of Sexual Harassment and [Student Sexual Violence \(https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/student-sexual-violence-policy-and-procedures.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/student-sexual-violence-policy-and-procedures.php) and also includes an employee's failure to disclose to a Supervisor an intimate relationship with a Student when required under the University's Ethical Conduct Policy.

“University Member” means any individual who at the time of the alleged Policy violation:

- is employed by the University or holds an appointment with the University, including paid, unpaid and/or honorific appointments (**“Employee”**);
- is registered as a student, in accordance with the academic regulations of the University (**“Student”**); and/or
- Is otherwise subject to University policies by virtue of the requirements of a specific policy (e.g. Booking and Use of University Space) and/or the terms of an agreement or contract.

“Workplace” means any place where Employees engage in any facet of employment activity (e.g. recruitment, training, evaluation and development), including employment activities online, outside the normal place of work, and employment activities that occur outside of normal working hours.

“Workplace Harassment” means,

- a. engaging in a course of vexatious comment or conduct against an Employee in a Workplace that is known or ought reasonably to be known to be unwelcome, and/or
- b. Workplace Sexual Harassment (defined as Sexual Harassment against an Employee in the workplace).

Scope and authority

3. The University's General Counsel is the Policy Owner. The Policy Owner is responsible for overseeing the implementation, administration, interpretation and application of these Procedures.
4. The Policy Owner will ensure the Procedures are reviewed as often as is necessary, and in any event, at least annually, in accordance with the University's Policy Framework and relevant Collective Agreements. The JHSC will be consulted on substantive revisions to this Policy instrument.
5. This Procedure applies to Reports made by or against Employees in the Workplace. This procedure necessarily overlaps with other University procedures that are concerned with preventing and addressing incidents of Harassment, Discrimination and Reprisal. Ontario Tech University will administer the overlap according to the following principles:
 - 5.1 This procedure will be applied to all incidents in which an Employee has allegedly experienced Harassment, Discrimination or Reprisal to ensure the University satisfies

its commitment to, and its obligations under, legislation and collective agreements.

- 5.2 Where it is alleged that a Student has, in their capacity as a Student, engaged in Harassment against an Employee, then the matter will be addressed in conjunction with the relevant [Student procedures \(procedures-to-prevent-and-address-discrimination-and-harassment-by-or-against-students.php\)](https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compli...).
 - 5.3 Allegations involving a Student who is also an Employee of the University, and who allegedly engaged in Harassment, Discrimination or Reprisal in the course of their employment, will be handled under this Policy instrument.
 - 5.4 Where an individual, other than a University Member, is alleged to have engaged in Harassment or Discrimination against an Employee, Human Resources and/or the Office of Campus Safety will consult with Members at risk, and other Members if necessary, to determine and implement reasonable measures to protect the health and safety of its Employees. Because the University does not have the jurisdiction to compel statements from members of the general public, or to impose sanctions upon them, it will not normally conduct a formal Investigation in such cases.
6. This procedure is a mechanism for alternative dispute resolution. It does not preclude complainants from pursuing resolution through external resources and processes, including those offered through grievance arbitration, or by the Human Rights Legal Support Centre, the Human Rights Tribunal of Ontario and the Ontario Labour Relations Board. However, The Human Rights Office may not accept a complaint or may halt dispute resolution processes under this procedure if a complainant decides to pursue external processes or grievance mechanisms on the same or similar matter unless an Investigation is legislatively required.

Procedure

7. **Confidentiality:** Information collected under this procedure will be used only for the purposes of administering the policy instrument and may be disclosed only on a need-to-know basis to the extent required to fulfill the University's legal obligations. Personal Information collected, used and disclosed under this procedure will otherwise be kept confidential. To this end:
- 7.1 All individuals involved in this procedure will be advised of their duty to maintain the confidentiality of all information disclosed to them in this procedure, including any confidential information disclosed to them.
 - 7.2 Confidential Information obtained during the Reporting Process will not be disclosed except to the extent that disclosure is necessary for the purposes of investigating Reports, taking corrective action, protecting the health and safety of members of the University community, or as otherwise required by law. For example, information may be shared with the Office of Campus Safety if this is necessary to protect an individual.
 - 7.3 Complainants and Respondents who are Employees will be advised of the outcome of

an Investigation and the corrective actions taken, if any.

- 7.4 All records will be maintained in a confidential file, including all related communications, memoranda, reports, statements and evidence. Reasonable steps will be taken to protect against unauthorized access to such documents. These records will be retained, and disposed of, in accordance with the Freedom of Information and Protection of Privacy Act and Ontario Tech University's Records Management Policy.
8. **Reprisal.** Any Reprisal, or expressed or implied threat of Reprisal, for making and pursuing a Report under this procedure is itself considered a breach of the corresponding Policy. Any individual experiencing Reprisal may file a Report, and that Report will be processed under this procedure.
9. **Right to a Support Person(s).** Individuals who are parties to a complaint and attend an interview or meeting under this procedure may be accompanied by a support person. The role of a support person is to provide moral support. Parties who choose to attend an interview with a support person must choose a support person who is not otherwise connected to the matter under Investigation (such as a witness or fellow Complainant) and will notify the investigator of their support person's name at least 24 hours prior to the meeting. In the case of an Employee who is a member of a bargaining unit, the support person may be a union representative. During an investigative interview, a support person will not be permitted to make legal submissions or arguments on behalf of the individual, or to disrupt the interview. In any event, individuals who are being interviewed must answer the interview questions themselves.
10. **Safety is Paramount:** Ontario Tech University has an overriding obligation to protect the safety of all University Members. When a University Member is at risk of imminent harm, we reserve the right to investigate and respond appropriately, independent of a Complainant's and/or Respondent's course of action under this procedure.
11. **Support Services:** [The Employee Family Assistance Program \(https://hr.ontariotechu.ca/healthy-workplace/Employee_Assistance_Program/index.php\)](https://hr.ontariotechu.ca/healthy-workplace/Employee_Assistance_Program/index.php) has appropriate support services for Employees who experience Harassment, Discrimination and/or Reprisal or to assist Employees who are involved in dispute resolution processes described in this Procedure.

PREVENTATIVE MEASURES

12. **Training:** Human Resources will ensure information and instruction is provided to Employees regarding Harassment, Discrimination and Reprisal. Training programs are available on the [Health and Safety Website \(https://healthandsafety.ontariotechu.ca/training/index.php\)](https://healthandsafety.ontariotechu.ca/training/index.php).

13. **Range of Dispute Resolution Options:** Several options to resolve Harassment and Discrimination concerns are available for Complainants. Informal approaches can foster prompt resolution and prevent escalation; particularly when concerns are raised expeditiously. These are opportunities for parties to resolve a dispute, ensure the Workplace is free from Harassment and Discrimination and address broader issues that caused or contributed to the dispute.
14. **Talk to the person about their behaviour:** Where appropriate, Complainants are expected to make good faith efforts to attempt to resolve matters themselves before filing a complaint. If a person feels they are experiencing Harassment or Discrimination, they should immediately make known to the person responsible that the conduct is unwelcome or offensive. It is important that this message be clear and unambiguous. When presented with a legitimate concern, University Members are expected to make reasonable adjustments to their behaviour to resolve the matter. If addressing the person responsible could lead to safety risks, or is not appropriate, Complainants may pursue other resolution options outlined in these procedures.
15. **Consultation:** Employees may benefit from having expert information and advice before deciding how to proceed with a concern related to this procedure. Complainants can consult a Person of Authority or may make an appointment with the Human Rights Office. Consultations are confidential and can provide advice, assistance, coaching, and referrals to assist Complainants.

REPORTING

16. The Reporting Process

Incidents of Harassment, Discrimination and/or Reprisal should be promptly reported to a Person of Authority and/or the Human Rights Office, and no later than one (1) year after the last incident of alleged harassment, discrimination or reprisal. If the Report is related to an Employee in the Human Rights Office, the report should be directed to the University's General Counsel, in which case the General Counsel will have the responsibilities assigned to the Human Rights Office below.

Step 1 – Submitting a Report

- 16.1 A "Report", and the corresponding "Reporting Process", is initiated when an individual completes the [Report form. \(https://shared.ontariotechu.ca/shared/department/usgc/policy/human-rights-office-report-form.pdf\)](https://shared.ontariotechu.ca/shared/department/usgc/policy/human-rights-office-report-form.pdf)
- 16.2 Person(s) of Authority who witness or are made aware of incidents of Harassment, Discrimination and/or Reprisal must initiate a Report to the Human Rights Office.
- 16.3 The Human Rights Office will, on its own initiative, initiate a Report when it receives information regarding an incident of Harassment, Discrimination and/or Reprisal in

the Workplace, unless such a Report has already been submitted by an individual.

Step 2 – Interim Measures

- 16.4 Upon receiving a Report, the University will immediately determine whether Interim Measures are necessary, considering the severity of the allegations, and the potential risks to University Members. Interim Measures will be implemented where reasonable and appropriate in the circumstances. Person(s) of Authority, the Complainant, Respondent, the Office of Campus Safety or any other relevant stakeholder, may be consulted on a confidential basis, to determine appropriate Interim Measures.

Step 3 – Assessment

- 16.5 The Human Rights Office will review the Report and any necessary associated information to determine if the conduct alleged in the Report would amount to Discrimination, Harassment and/or Reprisal. This determination will be based on an assumption that all of the alleged facts were true.
- 16.6 If the allegations set out in the Report would not, if true, amount to Discrimination, Harassment and/or Reprisal, the Human Rights Office will respond to the individual submitting the Report in writing, usually within 30 days, advising that the Report has been reviewed, and that the information provided does not support an allegation of Discrimination, Harassment and/or Reprisal under the Respectful Campus Policy. The individual submitting the Report will also be advised that the Human Rights Office may reconsider the Report if additional and significant information is provided. If there is another process or resource at the University that would be more appropriate for the subject matter of the Report, the individual will be advised of this alternative process.
- 16.7 If, on the other hand, the information provided would, assuming the alleged facts were true, support a finding that Discrimination, Harassment and/or Reprisal had occurred, the following dispute Resolution options will be considered.

Step 4 – Informal Resolution

- 16.8 Where appropriate, an informal resolution process, such as Mediation, can be pursued if the Complainant and Respondent consent to an informal resolution processes being pursued and to its format (Note: informal resolution options are not available related to allegations of Workplace Harassment, which require an investigation).
- 16.9 Where those involved in the informal resolution process reach an agreed resolution,

that resolution will become binding.

- 16.10 Once an informal resolution process has commenced, the Investigation may be delayed, after which, unless a resolution has been reached, the Investigation will re-commence.

Step 5 – Investigation

- 16.11 An Investigation will be conducted if informal resolution options are not appropriate in the circumstances or were not successful in resolving the dispute. The purpose of an Investigation is to: gather evidence and witness statements; weigh the evidence; make findings of fact based on the evidence; and, produce an Investigative report. In an investigation under this Procedure, the Investigator must make a determination having weighed the evidence on a Balance of Probabilities that either: (1) a policy breach occurred; or (2) a policy breach did not occur.
- 16.12 The Human Rights Office will ensure an Investigation process that is appropriate in the circumstances and that complies with Administrative Fairness requirements. At this stage, consideration will be given to whether the investigation will be conducted internally or externally. The Human Rights Office will review the collective agreement(s) of any individuals involved in the Report, and will ensure the procedural rights granted to those individuals under their respective collective agreements are maintained.
- 16.13 The assigned investigator has the authority to access evidence (documentary, electronic, audio, visual) and schedule meetings as necessary to complete a thorough review of the allegations and to draw findings of fact.
- 16.14 The Human Rights Office will ensure the complainant and respondents involved in an Investigation, and their respective bargaining agent(s), where applicable, are informed and updated regarding the investigation process that will be adopted in each particular case.

Step 6 – Determination & Corrective Action

- 16.15 The Human Rights Office will ensure that the results of the investigation are brought to the attention of, and reviewed by, the appropriate Person(s) of Authority.
- 16.16 In the event that the Investigation found a breach of policy, the investigator will make recommendations to adequately resolve the inappropriate behavior and restore the Workplace. Human Resources will advise the Person(s) of Authority with respect to appropriate corrective measures, if any, to be taken, including measures aimed at preventing Reprisal.

- 16.17 Where an Employee is found to have engaged in acts of Harassment, Discrimination and/or Reprisal, corrective measures may include non-disciplinary actions (e.g. education) or disciplinary measures (e.g. a written reprimand, a suspension or termination). Human Resources will ensure such reasonable steps are taken to prevent a recurrence.
- 16.18 Employees that are members of a bargaining unit shall have any corrective measure(s) imposed in accordance with applicable collective agreement requirements.
- 16.19 Information about investigation outcomes or corrective actions will be provided in accordance with the procedural requirements of any relevant collective agreement and any applicable laws. At the conclusion of an investigation, The Human Rights Office will ensure that any Complainant and any Respondent are informed, in writing, of the outcome of the investigation. Human Resources will ensure that any corrective actions taken or that will be taken are communicated to the Complainant (Employee) and Respondent (Employee) in writing.
- 16.20 The Relevant Person(s) of Authority will be responsible for implementing recommendations (including corrective action) in consultation and with the support of Human Resources.

Monitoring and review

17. This Procedure will be reviewed as necessary and at least every year. The University's General Counsel, or successor thereof, is responsible to monitor and review this Policy.

Relevant legislation

18. Human Rights Code, R.S.O. 1990, c. H.19

Occupational Health and Safety Act, R.S.O. 1990, c O.1, as amended

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c F. 31

Related policies, procedures & documents

19. Respectful Campus Policy

Accommodation Policy

Accommodation for Employees and Job Applicants with Disabilities

Academic Staff Employment Policies

Access to Information and Protection of Privacy Policy

Emergency Management Plan and Procedures

Fair Processes Policy

Non-Academic Staff Policies

Policy to Prevent and Respond to Sexual Violence for Students

Procedures for Responding to Incidents of Sexual Violence

Records Management Policy

Joint Health and Safety Committee Terms of Reference

Occupational Health and Safety Management System

Student Conduct Policy

Ontario Tech-Durham College Threat Assessment Procedures

Work Refusal Procedures