



Discrimination & Harassment Procedures

Category: Human Rights and Equity;

Approval Authority: Board of Trustees;

Effective Date: July 2006;

Amendments: March 2007, September 2016, September 2018, September 2022, October 2025.

Purpose

The purpose of this document is to outline the processes to be followed with respect to incidents and complaints of Discrimination and/or Harassment under the Discrimination and Harassment Policy ("Policy"). These Procedures apply to all Discrimination and Harassment incidents and Complaints that fall within the scope of the Policy.

These Procedures do not apply to complaints regarding workplace accommodations of employees, which are covered by the Employment Accommodations Policy, or to complaints regarding academic accommodations of students with disabilities, which are covered by the Academic Accommodations for Students with Disabilities Policy. Complaints of harassment or discriminatory conduct on the basis of disability may be addressed through these Procedures.

These Procedures do not apply to complaints regarding sexual harassment, which will be dealt with under the Sexual Violence Policy and Procedures, unless the University determines that it is more appropriate for the complaint or aspects of the complaint to proceed under this Policy and these Procedures, taking into account the nature and interrelation of the allegations.

Consultation and Guidance

1.1. Where to go for consultation or guidance

Any Brock Community Member may consult with Human Rights & Equity (HRE) for information about Discrimination or Harassment as well as resolution options under these Procedures.

Brock Community Members may also consult with the following Supporting Offices for information about Discrimination and Harassment and the resolution options under these Procedures:

- Students: Student Affairs
- Faculty and Staff: Office of People & Culture
- Visitors: Campus Safety Services

1.2. Documenting incidents

Any Brock Community Member who experiences or witnesses an incident of Discrimination or Harassment, should, as soon as possible, keep a written record setting out detailed information of the incident(s) they experienced or witnessed, including the date(s), time(s) and location(s) of such incident(s), the names of those who engaged in or who witnessed these incident(s), along with any other written records regarding the incident(s).

1.3. Resolution options

Any individual requesting consultation or guidance about Discrimination or Harassment will be provided with information about the Policy, the definitions of Discrimination and/or Harassment, and the resolution options for addressing concerns about alleged Discrimination and Harassment, which are:

- Referral:** where the matter is outside the scope of the Policy, it may be referred to another applicable policy or procedure (e.g., Student Code of Conduct, Employee Code of Conduct, Residence Community Standards, Academic Accommodations for Students with Disabilities Policy, Employment Accommodations Policy) or the individual may be provided information about other supports or options available to them.
- Personal resolution:** an individual may elect to resolve the matter personally, including requesting that the person(s) engaging in the Discrimination or

Harassment immediately cease doing so. When appropriate, HRE may suggest strategies for personal resolution.

- c. **Alternative Resolution:** when appropriate, HRE may propose to the parties that the matter be handled through Alternative Resolution as set out in section 2 below.
- d. **Complaint:** an individual may elect to submit a Complaint as set out in section 4 below.
- e. **Systemic Discrimination review:** where the matter involves allegations of Systemic Discrimination, it may be referred to the Associate Vice-President, Equity, Diversity & Inclusion, who will be responsible for overseeing a review of the policies and procedures implicated in the allegations and may provide recommendations about changes to address any potential Systemic Discrimination embedded in those policies or procedures.

2. Alternative Resolution

2.1. Availability

Where appropriate based on the nature and severity of the allegations, HRE may make available Alternative Resolution processes when both the Complainant and the Respondent agree to participate. HRE may also designate another unit or external third party to conduct the Alternative Resolution process.

If an alternative resolution concerns the conduct of an employee, the Office of People & Culture (People & Culture) may be consulted.

If an alternative resolution concerns the conduct of a student, HRE may refer the matter to Student Affairs and may designate Student Affairs to conduct the alternative resolution process.

2.2. Process

HRE, or designate, will make contact with the Respondent to discuss the concerns and invite the Respondent to participate in an Alternative Resolution process.

Where both parties agree, HRE, or designate, will work together with the parties, using Alternative Resolution processes to resolve the concerns.

Alternative Resolution will attempt to be conciliatory rather than adversarial. It is important for both parties to retain their dignity, and for practical solutions to be found to enable the parties to continue to work or study together. Alternative Resolution processes are intended to be informal, flexible, and trauma-informed. At a minimum, the process will involve HRE, or designate, meeting with each of the Complainant and Respondent. Following such meeting, HRE, or designate, will propose Alternative Resolution options.

In cases involving faculty members or professional librarians, HRE may seek the involvement of the Dean or University Librarian (as appropriate) in an Alternative Resolution process.

2.3. Support Persons and/or Representatives

When a Support Person or Representative is expected to attend an Alternative Resolution process, that party must notify HRE, or designate, in advance.

2.4. Outcome

If an Alternative Resolution process results in a resolution acceptable to both parties, HRE or designate will send a written communication to both parties, setting out the details of the resolution. Receipt of this written communication and confirmation in writing regarding the agreement must be acknowledged by both parties. HRE or designate will then assist in arranging any administrative or other action needed to implement the resolution.

2.5. Implications of participating in Alternative Resolution

Any individual who has participated in Alternative Resolution maintains the right to make a Complaint regarding unresolved matters. Any information collected as part of an Alternative Resolution is considered without prejudice and shall not be introduced as evidence in an investigation under this Policy unless both parties agree otherwise.

Any HRE staff member or individual designated by HRE to carry out an Alternative Resolution process shall not conduct any investigation of a Complaint regarding the same matter, and if interviewed as part of an investigation into such a Complaint, shall not reference Alternative Resolution discussions during the investigation process.

2.6. Timing

If Alternative Resolution does not result in a resolution acceptable to both parties within a reasonable time frame (normally within eight weeks (40 working days) of HRE making contact with the Respondent to discuss the matter, HRE, or designate, will advise the Complainant of their option to submit a Complaint as outlined in section 4 below. At any point during an Alternative Resolution process, a Complainant may elect to withdraw from the process and submit a Complaint.

3. Climate Reviews

3.1. Initiation

In consultation with the relevant Vice-President, a Senior Manager or a member of Senior Administration may initiate a Climate Review as an information gathering exercise to:

- Respond to concerns raised by one or more members of the University Community regarding the work or learning environment in a specific part of the University community; or
- Assess situations of group conflict from a high-level perspective and recommend practical solutions.

Nothing in this Policy precludes the utilization of Alternative Resolution processes as potential alternatives to a Climate Review.

3.2. Confidentiality

To encourage broad participation in the Climate Review, participants may be permitted to participate on a confidential basis.

3.3. Mandate

The mandate of a Climate Review is to solicit and listen to input from participants in order to better understand any issues and concerns related to the work and learning environment, and to make recommendations for its improvement. The scope and mandate of a Climate Review will be communicated clearly to all affected persons within the unit(s) at the outset thereof and to any relevant union(s). Participants will be advised that participation in the Climate Review is purely voluntary.

3.4. Climate Review Report

An individual conducting a Climate Review will produce a report at the conclusion of the Climate Review, which will include their recommendations for improving the workplace climate. The report will outline the nature of the issues or concerns identified in the Climate Review and it may identify individuals whose behaviour is alleged to have given rise to those issues or concerns. The report will not make any findings that any person has engaged in misconduct. The report shall not otherwise name any of the participants in the Climate Review.

3.5. Report Distribution

- a. The report will be provided to the Senior Manager or member of the Senior Administration who requested the Climate Review. If the Climate Review includes one or more employees of the University, a copy of the report shall be provided to People & Culture and a representative of the union(s) representing one or more employees in the unit(s) under review. The report may also be provided to the Provost, President, or other Senior Administrators responsible for the unit.
- b. The content of the report shall not be disseminated in whole or in part to any other person, except as required by law.
- c. An executive summary of the report, including the recommendations for improving the workplace climate, but not including any recommendation for an investigation under the Policy, will normally be shared with all persons invited to participate in the Climate Review, the Senior Manager or member of the Senior Administration responsible for the unit's management, and a representative of the union(s) representing one or more employees who participated in the review. The executive summary will not contain the name of any individuals. Where appropriate, the executive summary may be shared with persons involved in implementing the recommendations. The content of the executive summary shall not be disseminated in whole or in part to any other person, except as required by law.

3.6. Use of Report

The Climate Review report shall not be used as the basis for discipline. The individual conducting the Climate Review may recommend to the University that an investigation under the Policy be conducted. In those circumstances, the individual who conducted the Climate Review shall not be appointed to conduct any such investigation and shall

not otherwise participate in any such investigation. Documents created by the individual who conducted the Climate Review shall not be reviewed or relied upon by any investigator appointed.

4. Complaints

4.1. Submitting a Complaint

Any individual who believes they have experienced Discrimination or Harassment that falls within the scope of the Policy may file a Complaint with the Investigations Office using a Complaint Intake Form, to be completed by the Complainant, which will include the nature of the allegations(s), the date(s) and details of any incident(s) complained of, the names of any witnesses, and the alleged breach(es) of the Policy.

4.2. Anonymous disclosures

Brock Community Members have the option to disclose Discrimination or Harassment anonymously through Brock's Safe Disclosure program or the Human Rights and Equity Office's Disclosure Form. Individuals may learn more about the Safe Disclosure Program by visiting the University's Legal Services website at: <https://brocku.ca/legal/safe-disclosure>. Anonymous disclosures of Discrimination or Harassment will be forwarded to the Investigations Office for review under section 5 below. While the University will take appropriate steps to assess an anonymous disclosure, such disclosures may not result in an investigation if there is insufficient information to allow the University to proceed and meet its procedural fairness obligations.

4.3. Complaint review

Upon receipt, the Investigation Office will review the Complaint Intake Form and may consult with other relevant units or individuals to determine whether to proceed with an investigation. The Investigations Office may also request additional information from the Complainant. A decision with respect to investigation must be made within 10 working days of the Investigations Office receiving the completed Complaint.

4.4. Where investigation may be declined

Subject to applicable law that might require an investigation, the Investigations Office may decide not to proceed with an investigation if:

- a. the Complaint is about a matter or issues not governed by the Policy;
- b. the facts alleged, if proven to be true, would not constitute Discrimination or Harassment;
- c. the substance of the Complaint is already the subject matter of another proceeding (e.g., a grievance under a collective agreement);
- d. the Complaint is made more than one year after the incident(s) to which it relates. An investigation may be initiated after the one-year period, if the Investigations Office is satisfied that the reason for the delay was significant and incurred in good faith and no substantial prejudice will result to any person affected by the delay;
- e. the Respondent is not a member of the University Community. The Investigations Office has the option to proceed with an investigation in these circumstances on a case-by-case basis recognizing that the University's ability to investigate may be limited in such circumstances. Where a Complaint is made against a Visitor, the Investigations Office will consult with affected parties and relevant University Staff, Managers, and/or Senior Administration to determine how the Complaint will be addressed. In making this determination, the following factors will be considered:
 - The severity and frequency of the actions complained about;
 - Any continuing threat or risk to the University community;
 - The person's reason for being on University premises and whether that person has any continuing need to be on University premises;
 - The person's response to the Complaint and willingness resolve the matter; and
 - The University's duty to provide a safe and healthy work and learning environment for Members of the University Community, and its obligations under human rights, employment, and health and safety legislation.

4.5. Suspension of complaint process

If a Respondent's relationship with the University ends before the University resolves a Complaint the University may suspend the process, with the option of reinstating it if the

Respondent re-joins the University community; or continue the process, whether or not the Respondent participates.

4.6. Concerns relating to Retaliation, frivolous, vexatious, or bad faith allegations or breaches of confidentiality

If an allegation is made that a Brock Community Member has (a) engaged in Retaliation or threatened Retaliation against another Brock Community Member for pursuing rights or participating in procedures under this Policy; (b) filed a frivolous, vexatious, or bad faith Complaint; or (c) breached the confidentiality obligations set out in the Policy, the allegation will be reviewed by the Investigations Office which will determine the appropriate mechanism for addressing the allegation, which may include expanding the scope of the investigation of a Complaint to include the allegation or referring the allegation to Student Affairs or the Office of People and Culture, as applicable.

5. University-Initiated Investigation

5.1. Referral to Investigations Office

In order to satisfy its obligations under the *Occupational Health and Safety Act* to ensure that an investigation appropriate in the circumstances is conducted into incident(s) of Workplace Harassment, HRE or a Supporting Office, may refer allegations of Workplace Harassment to the Investigations Office for review under this section where there are reasonable grounds to believe Workplace Harassment may have occurred and the individual who experienced the alleged Workplace Harassment has declined to submit a Complaint. Anonymous Disclosures of Discrimination or Harassment received through the Safe Disclosure Program may also be referred to the Investigations Office for review under this section.

5.2. Criteria for University-Initiated Investigation

The Investigations Office may decide to proceed with an investigation or continue an investigation into allegations of Discrimination or Harassment, without the participation of the Complainant or Respondent or when no Complaint has been made, if the Investigations Office reasonably believes, after consulting with Legal Counsel, that:

- a. there is a serious risk to the safety of Brock Community Members, which is determined following consultation with Campus Safety Services by considering:

- i the Respondent's position or responsibilities at the University;
 - ii Whether the University has reasonable grounds to believe the Respondent may have committed multiple acts of Discrimination or Harassment;
 - iii Whether there is a pattern of similar behaviour; or
 - iv Any other considerations that the University deems relevant. Or,
- b. there is a legal obligation to investigate.

5.3. Authority to commence University-initiated Investigation

The decision to commence a University-initiated investigation will be made jointly by the Investigations Office and the Associate Vice-President, People & Culture for situations involving faculty and staff; or the Investigations Office and the Associate Vice-President, Students for situations involving students. In each case, Campus Safety Services and legal counsel will be consulted.

6. Investigation Procedures

6.1. Interim measures

Once the decision to launch an investigation is made, the Investigations Office will notify the applicable Supporting Offices who will advise the appropriate Decision-Maker regarding Interim Measures that are reasonable and necessary to allow the Complainant and/or Respondent to participate fully in the services available at the University, prevent retaliation, protect parties and witnesses, other Brock Community Members, or protect the integrity of the investigation and decision-making process. The Decision-Maker will decide what, if any, Interim Measures are reasonable and necessary and will be responsible for implementation of these Measures. Interim Measures may be implemented and/or modified at any time and may remain in effect until all Procedures under this Policy have been completed. Interim Measures implemented during an investigation process are temporary and not intended to be discipline within the meaning of any relevant collective agreement or University policy.

6.2. Investigation Procedures for Student Respondents

Complaints involving Student Respondents will be dealt with as an alleged breach of the Student Code of Conduct and investigations will follow the investigations process for

alleged breaches of that Code of Conduct. Student Affairs may refer the matter to Campus Safety Services for investigation, request that the investigation be conducted by the Investigations Office or designate any other investigator. Where the alleged misconduct occurred within a University Residence, Student Affairs may refer the matter to Housing Services for investigation, adjudication, and sanction under the Residence Community Standards. Any individual appointed as an internal investigator, including any investigators within Student Affairs, Campus Safety Services, and/or Housing Services, will have been trained or will receive training in how to conduct discrimination and harassment investigations, as arranged by the Investigations Office.

6.3. Investigation Procedures for Faculty, Professional Librarian and Staff

Respondents

a. Notice of Investigation

The Investigations Office shall notify the Complainant and Respondent of the investigation within five working days of the decision to commence an investigation. This notice shall include:

- i. The specific nature of the allegations(s), including the dates(s) and details of any incident(s) complained of;
- ii. The alleged breach(es) of the Policy;
- iii. The investigation procedure to be followed; and
- iv. The supports available which the parties may wish to consult; and
- v. Any interim measures being put in place during the investigation.

b. Appointment of investigator

The Investigations Office will appoint an impartial investigator with knowledge, training and experience to investigate formal complaints under the Policy. The investigator may be an internal investigator or an external investigator.

c. Selection of investigator

In determining whether to appoint an external investigator, the Investigations Office will consider the nature and severity of the allegations, the number of parties involved, the availability of an external investigator and length of time required to engage them in an investigation, and the appropriateness of engaging an internal investigator. At the time of appointment of the

investigator the Office of Investigations will confirm, to the extent reasonably possible, the investigator's ability to meet the timelines and other relevant aspects of the Policy. Any individual appointed as an internal investigator under these Procedures will have been trained in how to conduct discrimination and harassment investigations.

d. Notification to Complainant and Respondent

The Complainant and Respondent will be notified in writing of the identity of the investigator appointed.

e. Challenge to appointment of investigator

A Complainant or Respondent may challenge the appointment of an investigator on the grounds that the proposed investigator has a potential conflict of interest or that there is a reasonable apprehension of bias on their part. A Complainant or Respondent raising a challenge will submit it in writing to the Investigations Office no later than five working days after notice of the appointment of an investigator has been given to the Complainant and Respondent. The Investigations Office will make a decision with regards to the alleged conflict of interest or bias within five working days of having received the challenge. That decision will be final under the Policy.

f. Allegations of investigator bias arising during the investigation

An allegation of bias that arises during the course of an investigation into a Complaint shall be made in writing as soon as possible following the event(s) giving rise to the allegation and shall be presented to the Investigations Office. The Investigations Office may determine that an investigation may continue notwithstanding that an allegation of bias has been made.

g. Evidence gathering

Once the investigator appointment has been confirmed, the Investigations Office will make all relevant documentation in the possession of HRE, any Supporting Office and the Investigations Office concerning the Complaint available to the investigator. The investigator will gather testimonial evidence through interviews with the parties and any witnesses relevant to the investigation, as well as any relevant documentary evidence. When a

Complainant or Respondent wishes to have a Support Person or Representative attend an interview, that party must advise the Investigator. In all cases, the investigator will ensure that the Respondent has sufficient particulars about the allegations(s) being investigated, including the allegations in the Complaint Intake Form, to enable them to respond. The investigator may elect not to gather additional evidence, including testimonial evidence, where (a) after interviewing the Complainant, the investigator determines that the allegations do not meet the definition of discrimination or harassment or there is insufficient evidence to support the allegations; (b) the Respondent admits to the facts alleged by the Complainant and the only matter in dispute is whether the conduct violates the Policy; (c) the allegations are based solely on written communications and there is no additional context required to make a determination of whether the communications violate the policy.

h. Witnesses

The Complainant and Respondent will have an opportunity to propose witnesses. The investigator will determine which witnesses will be interviewed. Disclosure of personal information to witnesses shall be limited to what is reasonably necessary to conduct a fair investigation.

i. Investigation timeline

The investigation, including the preparation and delivery of the investigator's report, will normally be completed within eight months from the date the Respondent is notified. If an investigation is expected to take longer than eight months, then the Investigations Office will develop an investigation plan with the investigator to create a reasonable timeline for completion, which shall be provided to the parties. Time that elapses during the suspension of an investigation will not be included when calculating the investigation timeframe.

The investigator will update the parties and the Investigations Office on the progress of the investigation and its estimated time of completion every four weeks.

j. Postponement, suspension, or cancellation of investigations

The Investigations Office may decide to postpone, suspend or cancel any investigation if (a) the situation is appropriate for, and the parties mutually decide to attempt, an Alternative Resolution process; (b) its continuance would duplicate or prejudice another proceeding or bring the administration of the Policy and these procedures into disrepute; or (c) a Respondent is no longer a Brock Community Member. In coming to a decision, the Investigations Office will consider such factors as:

- i. The University's responsibility to provide an environment free from discrimination and harassment;
- ii. The recognition that grievances may be filed simultaneously with complaints in order to comply with negotiated timelines (should a Complainant under these circumstances elect to grieve a human rights matter under any applicable collective agreement or other policy established by the University rather than through the Policy and Procedures, the University reserves the right to continue with its own investigation to address the matter in compliance with its obligations under the Ontario Human Rights Code);
- iii. Other legal procedures that may be initiated to protect statutory rights; and
- iv. The wishes of the parties.

Should Alternative Resolution not be successful, should the Respondent become a Brock Community Member again, or should the other proceedings be abandoned, the Investigations Office may decide to resume the investigation.

k. Investigation report

At the completion of the investigation, the investigator will prepare an investigation report, and deliver it to the Investigations Office in the event of an external investigator, that sets out:

- the allegations giving rise to the investigation;
- grounds in the Policy that have allegedly been violated;

- any statements, responses, and documentation from the Complainant, Respondent and witnesses;
- findings of fact;
- any other information, documentation or evidence that the investigator deems relevant, and
- a determination as to whether the Policy has been breached.

The standard of proof for any factual findings shall be the balance of probabilities.

I. Review of external investigator reports

The Investigations Office will review investigation reports provided by external investigators to ensure the report complies with all relevant laws, University policies, and applicable collective agreement provisions.

m. Communication of investigation outcome and report

The Investigations Office will distribute the Investigation Report to the Complainant, Respondent, the Decision-Maker and any appropriate University department(s) and/or official(s). If the investigator's report determines that an employee of the University has violated the Policy, a copy of the report shall be provided to People & Culture. Where the final report finds no breach of the Policy, the matter shall be considered resolved and the final report shall not be forwarded to People & Culture or placed in the official personnel file of the Respondent. When required by the Occupational Health and Safety Act, People & Culture will ensure that a University employee who has allegedly experienced Workplace Harassment is informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.

6.4. Investigation Procedures for Visitor Respondents

Investigations involving Visitor Respondents will be conducted by Campus Safety Services in accordance with its standard investigation procedures. Any individual appointed as an internal investigator in Campus Safety Services will have been trained or will receive training in how to conduct Discrimination and Harassment investigations, as arranged by the Investigations Office. If Campus Safety Services determines that

due to capacity or the nature of the allegations, the Investigations Office should conduct the investigation, the investigation procedures for staff, faculty, professional librarians, and volunteers will be followed and modified as determined appropriate by the Investigations Office.

7. Decision-Making Procedures

7.1. Process

Prior to making a decision, the applicable Decision-Maker will follow any process requirements set out in the Student Code of Conduct or any applicable collective agreement.

7.2. Decision

Within 10 working days of receipt of the investigation report, and subject to any timelines required by the Student Code of Conduct or any applicable collective agreement, the Decision-Maker will decide whether:

- a. The Policy has been breached and, if so, whether disciplinary sanctions will be imposed against the Respondent, and what those sanctions will be;
- b. The Policy has not been breached and the matter will be closed; or
- c. The Policy has not been breached, but non-disciplinary measures will be implemented to address concerns raised by the investigation report.

8. Appeals

8.1. Appeal mechanisms

Respondents may appeal the decision of the Decision-Maker under section 7.2 as follows:

- a. Student Respondents – by filing an appeal under the appeal procedures in the Student Code of Conduct.
- b. Employees – for those represented by a union, by filing a grievance in accordance with the applicable collective agreement.

8.2. Investigation status during procedural challenges

The investigation of a Complaint may commence or continue notwithstanding an allegation of a procedural violation of the Policy or the filing of a related grievance.

9. Complaints Against HRE or Investigations Office Staff

Complaints of discrimination or harassment brought against HRE employees or Investigations Office employees may be filed with the Associate Vice-President, People & Culture, who shall determine how best to proceed. Where appropriate and the parties agree, a third party shall be appointed to attempt Alternative Resolution. Where an investigation is required, the process for staff outlined in these Procedures shall be used, with People & Culture or their designate playing the role of HRE or Investigations Office, as appropriate.

Review Period: Same as associated Policy;

Next Review Period: Same as associated Policy;

Related Policies and Policy Instruments: Name of associated policy at minimum;

Required Consultations: List any required consultations;

Recommended Consultations: List any recommended consultations;

The University Secretariat manages the development of policies through an impartial, fair governance process, and in accordance with the Policy Management Policy & Procedures. Please contact the University Secretariat for additional information on University policies and policy related instruments and/or if you require this information in another format:

Open: Monday through Friday from 8:30 a.m. to 4:30 p.m.;

Email: universitysecretary@brocku.ca