

## RESPECTFUL WORK AND LEARNING ENVIRONMENT PROCEDURES

### PURPOSE

The purpose of this document is to provide detailed instructions for the processes related to the Respectful Work and Learning Environment Policy ('the Policy'), including conflict resolution and investigation procedures.

These Procedures fall under and should be read together with the *Respectful Work and Learning Environment Policy*.

Note that the definitions outlined in the Policy also apply to the Procedures document.

### CONFIDENTIALITY

1. Because of the particular sensitivity of allegations of Discrimination and Harassment, the parties to a complaint and those involved in an investigation will be informed of the requirement to keep the complaint and their involvement in an investigation confidential. Breaches of confidentiality may result in disciplinary action.
2. Confidentiality does not mean anonymity. The Respondent to a complaint must be informed of the specific nature of the complaint, including the identity of the Complainant. A Respondent may also be informed of the names of others who participate in an investigation where necessary for the Respondent to respond to the allegations. If a Respondent is provided with this information, they shall be reminded that any reprisal against a Complainant or anyone involved in an investigation constitutes a violation of the Policy may result in disciplinary action.

### PERSONAL SAFETY

3. Where there exists a clear, serious, and immediate threat to the safety of one or more members of the community, the University shall warn any community members at risk notwithstanding any confidentiality requirement that may otherwise apply.

### ROLE OF THE HRE

4. The role of the Human Rights and Equity Office is to:

## OFFICE

- Receive and document concerns regarding an alleged violation of the Policy;
- Offer support, guidance and advice regarding the scope and application of the Policy, and to outline and advise Complainants and Respondents on the procedures in the Policy, including personal resolution, informal resolution using alternative dispute resolution measures, or a formal complaint;
- Assist the parties to informally resolve matters, as required;
- Ensure that Complaints of Workplace Harassment are investigated in a manner that is appropriate to the circumstances, in accordance with applicable collective agreements and other contractual obligations, and coordinate the investigation process in a consistent, timely and fair manner;
- Communicate the results of any investigation under the Policy to Complainants and Respondents. If either the Complainant or Respondent is a University employee, Human Resources shall be consulted prior to the delivery of any communication;
- Assist those with supervisory responsibilities in the resolution of human rights concerns;
- Make referrals to other University departments or outside organizations that can further support or assist the Complainant in resolving the matter; and
- Bring to the attention of those in positions of responsibility any University policy, procedures or practices that appear to discriminate against a person or groups based on prohibited grounds.

## PERSONAL ASSISTANCE

5. Any Complainant or Respondent may seek assistance, support, or representation from another person of their choice, such as a union observer/representative or ombudsperson. The Human Rights and Equity Office shall advise the parties about possible personal assistance available to them on campus.
6. In a personal resolution or informal resolution process, the parties may be accompanied by a personal advisor who may participate in the process as observer and/or representative. However, the parties to the process must also be present and participate. When a personal advisor attends and/or represents a party, that party must advise the Human Rights and Equity Office.

## STAGES OF COMPLAINT

7. Participation and/or representation by personal advisors during the formal complaint process is subject to the applicable collective agreements and/or other university policies or codes of conduct.
8. No member of the Human Rights and Equity Office or Office of the Ombudsperson may act as a party's personal representative/advisor during the personal resolution, informal resolution or formal complaint processes.
9. The following process describes three stages: personal resolution, informal resolution and formal complaint. In all but the most serious cases, the University would hope that the matter could be resolved through the personal resolution or informal resolution stages. The aim is to arrive at a constructive and mutually acceptable outcome wherever possible.
10. Complaints must normally be initiated within twelve (12) months of the incident occurring. In extenuating circumstances a complaint filed after this twelve-month period has passed may be considered at the discretion of the Human Rights and Equity Office.
11. Any of the time frames for the steps outlined below may be extended upon mutual agreement of the parties. In extenuating circumstances, the Human Rights and Equity Office may also extend a time frame. In all cases, the Human Rights and Equity Office will advise the parties of the reason for and period of the extension. Such notice shall not be unreasonably delayed and will be provided to the parties when it becomes apparent that an extension is required.
12. A Complainant has the right to withdraw a complaint at any time, but the University may continue to address the allegations in the complaint.

## PERSONAL RESOLUTION

13. Any Faculty member, Staff member, student, course participant, volunteer or visitor who believes that they have experienced or witnessed Discrimination and/or Harassment:
  - should contact the Human Rights and Equity Office for advice and assistance in resolving the matter;
  - may request that the person(s) engaged in this behaviour immediately cease doing so; and
  - should, as soon as possible, keep a written record setting out detailed information of the events they

experienced, including the date(s), time(s) and location(s) of such events, the names of those who engaged in or who witnessed these events, along with any other written records regarding the event.

14. Where:

- Personal resolution does not succeed;
- The behaviour continues;
- The behaviour is of a more serious nature than can be dealt with by personal resolution; or
- Personal resolution is not appropriate to the specific case;

then the Complainant may make a complaint to the Human Rights and Equity Office, which shall be addressed through the informal resolution or formal complaint process, depending on the circumstances of the case.

## INFORMAL RESOLUTION

15. Informal 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.

16. Where a complaint of Discrimination and/or Harassment has been made and the informal resolution process is utilized, the Human Rights and Equity Office will make contact with the Respondent to discuss the complaint and invite the Respondent to participate in an informal resolution process.

17. Where the parties agree, the Human Rights and Equity Office will work together with the parties, using alternative dispute resolution strategies to resolve the complaint. Any information obtained during alternative dispute resolution or an attempted settlement arising from the process is without prejudice and will not be introduced as evidence in any subsequent investigation under the formal complaint process.

18. If an informal resolution acceptable to both parties is reached, then the Human Rights and Equity Office will send written communication to both parties, setting out the details of the informal resolution. Receipt of this written communication and confirmation in writing regarding the agreement must be acknowledged by both parties. The Human Rights and Equity Office will then assist in bringing about whatever administrative or other action is needed to implement the resolution.

19. Informal resolution shall normally be completed within eight (8) weeks (40 working days) of the Human Rights and Equity Office making contact with the Respondent to discuss the matter.

20. Where:

- Informal resolution measures do not resolve the matter;
- Both parties are not willing to attempt informal resolution;
- The behaviour continues;
- The behaviour is of a more serious nature than can be dealt with by informal resolution; or
- Informal resolution is not appropriate to the specific case, then the matter will move to a formal complaint process.

#### FORMAL COMPLAINT PROCESS

21. Failing resolution of the matter through personal or informal resolution, the Complainant may submit a formal complaint form in writing to the Human Rights and Equity Office. A Complainant may submit a formal complaint intake form at any time and is not required to first engage in personal or informal resolution.

22. Using the formal complaint form, the Complainant shall set out the specific nature of the allegation(s), including the date(s) and details of any incident(s) complained of, the name(s) of the witnesses, and the alleged breach(es) of the Policy.

23. The decision on whether or not to proceed with formal complaint shall be made by the Human Rights and Equity Office in consultation with Legal Counsel and Human Resources where relevant. On receiving a formal intake complaint form, the Human Rights and Equity Office will determine if:

- The University has jurisdiction,
- The allegations fall within the scope of the Policy,
- The most recent alleged incident occurred within the past twelve (12) months; and
- There are any safety risks or health concerns that require immediate action.

24. If the Human Rights and Equity Office decides not to proceed with the formal complaint process, the Complainant shall be informed in writing within ten (10) working days of receipt of the completed formal complaint intake form.

25. If the Human Rights and Equity Office decides to proceed with the formal complaint process, both Complainant and the Respondent shall be notified within ten (10) working days of receipt of the completed formal complaint intake form. This notice shall include:
- The specific nature of the allegations(s), including the dates(s) and details of any incident(s) complained of;
  - The alleged breach(es) of the Policy;
  - The procedure to be followed in the resolution of the complaint; and
  - The support services available which the parties may wish to consult.
26. Nothing in the Policy precludes the University from commencing an investigation where the University reasonably believes that Discrimination and/or Harassment may have occurred.

## CLIMATE REVIEWS

27. 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 informal conflict resolution processes as potential alternatives to a Climate Review.

28. To encourage broad participation in the Climate Review, participants may be permitted to participate on a confidential basis.
29. 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.
30. 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. 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 Human Resources 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. The content of the report shall not be disseminated in whole or in part to any other person, except as required by law.

31. 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 a formal 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.
32. The scope and mandate of a Climate Review will be clearly communicated 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.
33. An executive summary of the report, including the recommendations for improving the workplace climate, but not including a recommendation for a formal investigation under the Policy, if any, 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.

#### INTERIM MEASURES

34. After a complaint is made, the Human Rights and Equity Office, in consultation with the appropriate supervisory or academic personnel, will determine if any interim measures are required to protect the University, its community or any of its members, and/or the integrity of the process. These measures may include limiting access to facilities, making arrangements for alternative grading or supervisory relationships, or discontinuing contact between the Complainant and the Respondent during the period of the formal complaint process. Interim measures, if required, are to be implemented by the appropriate University personnel. Human Resources will be consulted before any interim measures that affect a University employee are implemented. Both parties shall be notified of any interim measures. Note that any interim measures are not intended as discipline or a transfer within the meaning of any applicable collective agreement or policy.

#### RESOLUTION OF FORMAL COMPLAINTS

35. Formal complaints against a student may be dealt with as alleged breaches of residence and/or campus codes of conduct. As such, staff of the Human Rights and Equity Office may refer the matter to Campus Security Services, the Department of Residence, and/or the Manager, Student Affairs, for investigation, adjudication and sanction under the appropriate code of conduct. The Human Rights and Equity Office shall play an advisory role in ensuring that the investigation and adjudication of complaints that are referred to these offices against students are handled in a manner consistent with the spirit and procedures within the Policy.

36. Formal complaints against Faculty and Staff shall be dealt with under the Policy and in accordance with applicable collective agreements and Human Resources policies. Human Resources will coordinate with the Human Rights and Equity Office to ensure that, as required by the Occupational Health & Safety Act, a University employee who has allegedly experienced Workplace Harassment will be informed of any corrective



action that has been taken or that will be taken as a result of a Workplace Harassment investigation.

37. Where a formal complaint is made against a visitor, volunteer or course participant, the Human Rights and Equity 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 to resolve the matter; and
  - The University's duty to provide a safe and healthy work and learning environment for its Faculty, Staff, and students, and its obligations under human rights, employment, and health and safety legislation.
38. The Human Rights and Equity Office will appoint an impartial investigator with knowledge, training, and experience regarding Discrimination and Harassment to investigate formal complaints under the Policy. The investigator can be an internal investigator, an investigation team, or an external investigator.
39. In determining whether to appoint an external investigator, the Human Rights and Equity 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 Human Rights and Equity Office will confirm to the extent reasonably possible the investigator's ability to meet the timelines and other relevant aspects of the Policy.
40. Anyone appointed as an internal investigator under the Policy, and employees in Campus Security Services and the Department of Residences who are responsible for the investigation of Discrimination and/or Harassment complaints, will have been trained or will receive

## INVESTIGATOR

training in how to conduct such investigations, as arranged by the Human Rights and Equity Office and Human Resources.

## INVESTIGATION PROCESS

41. Once the investigator has been appointed, the Human Rights and Equity Office will make all relevant documentation in its possession concerning the complaint (subject to section 17 of these procedures) available to the investigator.
42. The parties will be notified in writing of the identity of the investigator appointed.
43. Any party to a formal complaint 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 party raising a challenge will submit it in writing to the Human Rights and Equity Office no later than five (5) working days after notice of the appointment of an investigator has been given to the Complainant and Respondent. The Human Rights and Equity Office will make a decision with regards to the alleged conflict of interest or bias within five (5) working days of having received the challenge. That decision will be final under the Policy.
44. An allegation of bias that arises during the course of an investigation into a formal 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 Human Rights and Equity Office.
45. The Human Rights and Equity Office may determine that an investigation of a formal complaint may continue notwithstanding that an allegation of bias has been made.
46. The following process will be followed by the investigator appointed by the Human Rights and Equity Office.
47. 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.
48. 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 form, to enable them to respond.

49. The investigator may decide to suspend any investigation in the event that the situation is appropriate for, and the parties mutually decide to attempt, alternative dispute resolution through the Human Rights and Equity Office. Should alternative dispute resolution not be successful, the investigator will restart the investigation.
50. The University may decide to postpone, suspend or cancel any investigation if its continuance would duplicate or prejudice another proceeding or bring the administration of the Policy and these procedures into disrepute. In coming to a decision, the University will consider such factors as:
  - The University's responsibility to provide an environment free from Harassment and Discrimination;
  - 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);
  - Other legal procedures that may be initiated to protect statutory rights; and
  - The wishes of the parties.
51. The investigator will update the parties and the Human Rights and Equity Office on the progress of the investigation and its estimated time of completion every four weeks.
52. The investigation, including the preparation and delivery of the investigator's draft report, shall normally be completed within eight (8) months from the date the Respondent is notified in accordance with paragraph 42 above. If an investigation is expected to take longer than eight (8) months, then the Human Rights and Equity Office shall 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 as set out above in paragraph 50 will not be included when

#### INVESTIGATION TIME FRAME

INVESTIGATION  
RESULTS AND  
REPORTS

calculating this time limitation.

53. Following the conclusion of the investigation, the investigator shall submit an investigation report as soon as practicable, having regard to the scope and complexity of the complaint and the investigation, to the Human Rights and Equity Office, which will distribute it to the parties.

This investigation report shall include:

- Allegations giving rise to the formal complaint;
- Grounds in the Policy that have allegedly been violated;
- Any responses of the Respondent and Complainant;
- Findings of fact; and
- A determination as to whether or not the Policy has been breached, which shall be made using the standard of proof on a balance of probabilities.

54. If the Complainant is an employee of the University (or otherwise in an employment relationship with the University) and has allegedly experienced Workplace Harassment or Discrimination, both the Complainant and the Respondent (if they are also an employee or in an employment relationship with the University) will be informed of the results of the investigation and of any corrective action that has been taken against either party, as required by law.

55. The Complainant, Respondent, and any appropriate University department(s) and/or official(s) shall be informed in writing of the investigation's outcome. 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 Human Resources.

56. 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 Human Resources or placed in the official personnel or student file of the Respondent.

COMPLAINTS  
AGAINST HRE STAFF

57. Complaints brought against staff of the Human Rights and Equity Office under this Policy shall be brought to the Office of the President, who shall oversee the application of these procedures to the complaint. Where appropriate and the parties agree, a third party shall be appointed to attempt informal resolution between the parties. Where formal complaint procedures are required, the process for Staff outlined in this procedure shall be used and the President or their designate shall take over the responsibilities normally taken by staff of the Human Rights and Equity Office.

BAD FAITH

58. It is a violation of the Policy for any person to:

## ALLEGATIONS

- Make a frivolous, vexatious, malicious or bad allegation;
- Initiate a procedure under the Policy in bad faith; or
- Influence an ongoing procedure under the Policy in bad faith.

A written complaint that a bad faith allegation or action has been made will be treated as a formal complaint under the Policy. If such a complaint is substantiated, it will be subject to the same consequences as complaints of Discrimination and/or Harassment.

## REPRISALS

59. It is a violation of the Policy for any person to retaliate or initiate a reprisal against anyone because they have participated in a process using the Policy. Written allegations of retaliation or reprisals will be treated as a formal complaint under the Policy. If such a complaint is substantiated, it will be subject to the same consequences as complaints of Discrimination and/or Harassment and may also be grounds for the use of interim measures as set out in these procedures.

## WHISTLEBLOWER PROTECTION

60. A member of the Brock community who comes forward in good faith with reports or concerns about compliance with University policies or procedures shall not be subject to reprisal or retaliation for making such a report. Any such reprisal or retaliation shall be considered under the Policy.

## APPEALS

61. A student may initiate an appeal alleging that any of the procedures in the Policy have been violated in accordance with the applicable student code of conduct.
62. The investigation of a formal complaint may commence or continue notwithstanding an allegation of a procedural violation of the Policy or the filing of a related appeal.
63. A unionized employee of the University may initiate an appeal by filing a grievance in accordance with the applicable collective agreement.