

# HARASSMENT AND DISCRIMINATION PREVENTION POLICY

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## PART 1 – POLICY

### 1. Policy Statement

- 1.1 All individuals in the Huron University College (the “College”) community have the right to participate in the College’s activities – whether for academic reasons, for working purposes, or living accommodations – in an environment which is free of discrimination and harassment.
- 1.2 In order to create and maintain an environment respectful of individual differences, which attempts to provide fair equality of opportunity with respect to services, goods, facilities, accommodation and employment, discrimination and harassment will not be tolerated by the College.
- 1.3 The members of the College community are committed to providing an environment which is free of discrimination and harassment. In upholding that commitment, the College has devised this Harassment and Discrimination Prevention Policy.
- 1.4 This Policy applies to students, employees, volunteers and any individuals, who work, study, live or visit at the College.
- 1.5 The obligation to provide and maintain an environment free of discrimination and harassment is the shared responsibility of all members of the College community.
- 1.6 This Policy is to be construed and applied in accordance with the College’s Policy on academic freedom and the *Ontario Human Rights Code*. Nothing in this Policy prevents the College from implementing equity measures or programs.
- 1.7 To this end, the College will ensure that the members of the College community are aware of this Policy and the College will be proactive in undertaking a campaign for education and prevention.
- 1.8 The College recognizes its responsibility to deal quickly, fairly and effectively with discrimination and harassment should they arise. In such an event, both the rights of the individual bringing the complaint (the “Complainant”) and those of the individual about whom the complaint is made (the “Respondent”) will be safeguarded.

## **2. Principles**

- 2.1 The *Ontario Human Rights Code* (“OHRC”) stipulates that every person has a right to equal treatment with respect to services, goods, facilities, accommodation and employment, without discrimination. The members of the College community are bound by the *Ontario Human Rights Code*. In addition, the College has devised this Policy which complements the *Ontario Human Rights Code*. Any member of the College community has the right to seek redress pursuant to the provision of the *Ontario Human Rights Code* whether or not he or she is also taking steps under the College Policy.
- 2.2 It is prohibited to discriminate in any *services, goods or facilities* because of race, ancestry, place of origin, colour, ethnic origin including language, dialect or accent, citizenship, creed, sex (including pregnancy), sexual orientation, disability, age, marital status, or family status.
- 2.3 It is prohibited to discriminate with respect to *accommodation* because of race, ancestry, place of origin, colour, ethnic origin including language, dialect or accent, citizenship, creed, sex (including pregnancy), sexual orientation, disability, age, marital status, family status or receipt of public assistance.
- 2.4 It is prohibited to discriminate with respect to *employment* because of race, ancestry, place of origin, colour, ethnic origin including language, dialect or accent, citizenship, creed, sex (including pregnancy), sexual orientation, disability, age, marital status, family status or an offence in respect of which a pardon has been granted and not revoked or an offence in respect of any provincial enactment.

Henceforth, these shall be referred to as “prohibited grounds.”

- 2.5 This Policy covers discrimination and harassment based on the prohibited grounds as well as discrimination and harassment which are based on grounds not enumerated under the *Ontario Human Rights Code*.

## **3. Prohibition**

- 3.1 There shall be no discrimination, harassment or sexual harassment exercised by or against any individual.

## **4. Definitions**

- 4.1 Discrimination – actions or behaviour that abrogate fair equality of opportunity. These may be intentional or unintentional including systemic discrimination resulting from policies, practices, procedures, actions or inactions that appear neutral but have an adverse impact. In this document, the terms “harassment” and “discrimination” will refer to all prohibited forms of harassment and discrimination. Institutions are allowed to seek exemptions from this Policy and the *Ontario Human Rights Code* to operate special programs designed to benefit disadvantaged groups or individuals. The College may also apply existing exemptions under the *Ontario Human Rights*

*Code* such as the ability to set bona fide job requirements – if these requirements are essential to the performance of the job.

- 4.2 Harassment – vexatious comment or conduct that is unwelcome and that unreasonably interferes with an individual’s work or educational performance, or that is known or might reasonably be known to create an intimidating, hostile, or offensive working or educational environment.
- 4.3 Sexual Harassment – one or a series of comments or conduct of a gender-related or sexual nature that is unwelcome and that unreasonably interferes with an individual’s work or education performance, or that is known or might reasonably be known to create an intimidating, hostile, or offensive working or educational environment; or sexual advances or related conduct where the response affects employment or educational decisions.

## **5. Coverage**

- 5.1 This Policy applies within the work, study and residence environment, to every member of the College community, or any other persons on its premises. This Policy also applies to individuals/groups when attending College functions or officially representing the College off campus.
- 5.2 Any member of the College faculty or staff who becomes aware of conduct that may constitute a violation of this policy may choose to inform the CAO about such conduct. The CAO may as a consequence of this information initiate a Formal Investigation pursuant to this Policy.

## **6. Policy Monitoring and Review**

- 6.1 The Chief Administrative Officer will submit to the Huron University Executive Board an annual confidential report reviewing the year’s proceedings including the number of cases resolved through Informal Mediation and the number of cases resolved through formal resolution procedures. The report will include observations concerning any aspects of the Policy that should be reviewed or altered. The Executive Board will strike a formal committee to review the Policy every five years or sooner if the Principal feels it is appropriate.

## **7. Costs**

- 7.1 Expenses associated with the administration of this Policy are to be authorized and budgeted through the Office of the Principal. These will include:
  - (a) development, production, and dissemination of educational and awareness materials;
  - (b) administrative expenses; and
  - (c) costs incurred by the College in resolving any disputes.

## **8. Prevention and Education**

- 8.1 The College will provide its community with information about harassment and discrimination by developing and implementing an awareness program which may include:
- (a) providing every student, employee, contractor, and other individuals associated with the College on a long-term or continuing basis with this Policy;
  - (b) informing and educating managers, supervisors, and others in authority of their responsibilities and rights under the Policy and the *Ontario Human Rights Code*, specifically, to foster and maintain a work/study environment that does not tolerate discrimination and harassment;
  - (c) familiarizing managers, supervisors, and others in authority with the complaint procedures so that they may appropriately direct complaints of harassment and discrimination to the College;
  - (d) posting public signs at entrances and other high traffic areas within the College to alert visitors to the campus that the Policy on harassment and discrimination applies to them; and
  - (e) holding regular educational seminars for all members of the College community to increase awareness of harassment and discrimination issues.

## **PART 2 – PROCEDURES**

### **1. General**

- 1.1 Allegations of discrimination, harassment or sexual harassment reported to or made known to the College, within the scope of its responsibilities and powers to act, shall normally be processed and/or acted upon in accordance with this Policy and the procedures established under it.
- 1.2 Notwithstanding any of the policies and/or procedures established by the College respecting discrimination, harassment or sexual harassment, any individual has the right to have his/her complaint heard by the Human Rights Tribunal of Ontario or in cases where the individual is seeking academic remediation, to the Senate Review Board Academic of The University of Western Ontario.
- 1.3 A Complainant may seek assistance from a support person.
- 1.4 It is recognized that frivolous or vexatious complaints are themselves a form of harassment, and the Respondent may have recourse to this Policy if he/she chooses to pursue the matter.

- 1.5 The College understands that it is difficult to come forward with a complaint of discrimination or harassment, and recognizes the individual's interest in keeping the matter confidential. To protect the interest of all the parties, confidentiality will be maintained throughout the investigatory process to the greatest extent possible, and to the extent which does not hinder an adequate investigation. Information will be disclosed only on a "need to know" basis. All notes, records, summaries and reports of other documentation produced in connection with the complaint will be kept in a confidential file in accordance with this paragraph (except where disclosure is required pursuant to any legal requirements).
- 1.6 It is essential to the successful operation of this Policy and procedure that all matters arising from the Informal Mediation or Formal Resolution Procedure be held in the strictest confidence. All parties and witnesses will be asked to keep names and content of the proceedings confidential, unless otherwise specified by the resolution agreement. All records pertaining to the complaints will be subject to the following policies:
- (a) Records shall be maintained in a locked area for ten years unless otherwise specified by law;
  - (b) No disclosure may be made of any record pertaining to complaints, except under the following circumstances:
    - (i) when disclosure is permitted by the terms of this Policy and its procedures;
    - (ii) when disclosure is consented to by all persons affected by the disclosure; or
    - (iii) as may be required by law
  - (c) Records will be destroyed after ten years of inactivity, or as soon as practicable thereafter.
- 1.7 Any person or persons seeking rights under this Policy or any individuals associated with the investigation or enforcement of this Policy will be protected under the Policy from reprisals or threats. Acts of reprisals shall be reported immediately and will be investigated and dealt with as complaints under this Policy. Such conduct, if substantiated, will be subject to disciplinary action.

## **2. Initiation of Complaint**

- 2.1 If a situation involving discrimination, harassment or sexual harassment has occurred, or is thought to have occurred, the Complainant shall contact or be referred to the Chief Administrative Officer. Where the complaint pertains to the Chief Administrative Officer, such complaint shall go to the Principal or the Principal's designate and these Procedures will reflect such change.

- 2.2 The complaint must be made within (12) twelve months of the last alleged incident. The Chief Administrative Officer may extend this time limit at his or her discretion, which discretion will be exercised on a case-by-case basis.
- 2.3 Following consultation with the Chief Administrative Officer, the Complainant may decide to:
- (a) take no further action;
  - (b) proceed to Informal Mediation ; or
  - (c) proceed to Formal Resolution Procedure.
- 2.4 The Complainant can withdraw the complaint at any stage.

### **3. Informal Mediation**

- 3.1 If a Complainant wishes to proceed to Informal Mediation, the following shall occur:
- (a) The Complainant and the Chief Administrative Officer will set out the complaint in writing giving details of the alleged discrimination, harassment or sexual harassment, including but not limited to dates, times, places, names of individuals involved in the incident(s), names of witnesses.
  - (b) Within one (1) week from the date of receipt of the written complaint, or as soon as practicable thereafter, the Chief Administrative Officer shall inform the Respondent of the allegation(s) and shall provide the Respondent with a copy of the written complaint.
  - (c) Within two (2) weeks of the action in (b) above, or as soon as practicable thereafter, the Chief Administrative Officer shall select a Mediator and shall receive agreement on the choice of Mediator from both the Complainant and Respondent. The Mediator chosen must be unbiased and independent of both parties.
  - (d) The Mediator must first determine whether the complaint is being made in good faith and is not frivolous or vexatious.
  - (e) During Mediation , either Party may be accompanied by a support person.
  - (f) Within a period of six (6) weeks from the date of agreement to an appointment of the Mediator under (c) above, or as soon as practicable thereafter, the Mediation process shall be concluded. If resolution is achieved as a result of Mediation , a written copy of the resolution shall be signed by the Complainant, Respondent and Mediator. The Mediator will make a complete report to the College, which will be kept in confidential College files.

- 3.2 The purpose of Informal Mediation is to seek a mutually satisfactory resolution of the issues between the Complainant and the Respondent. The resolution may take a range of forms, from verbal apologies and personal undertakings to formal written minutes of settlement.
- 3.3 Any written documentation (except the written complaint) regarding the Informal Mediation Procedure, any negotiations or any attempts at settlement thereof cannot be used in the Formal Resolution Procedure. Neither the Chief Administrative Officer, nor the Chief Administrative Officer's designate if applicable, can appear as a witness in any dispute resolution process arising from the application of this Policy or in any subsequent investigations or proceedings unless compelled by law. This does not preclude the Chief Administrative Officer from speaking about the facts arising out of the Informal Mediation Procedure (other than particulars of any settlement negotiations) to an Investigator appointed under the Formal Resolution Procedure.

#### **4. Formal Resolution Procedure**

- 4.1 The Complainant may proceed to the Formal Resolution Procedure in the following circumstances:
- (a) If the Complainant chooses to proceed directly to the Formal Resolution Procedure;
  - (b) If Informal Mediation does not resolve the dispute; or
  - (c) If the terms of the resolution resulting from the Informal Mediation have not been met.
- 4.2 The Formal Resolution Procedure must be initiated within one month of the occurrence of any of the events set out at (a), (b) or (c).
- 4.3 If the Formal Resolution Procedure is invoked, the following shall occur:
- (a) The Chief Administrative Officer shall forward a copy of the written complaint to the Principal, except when the complaint is against the Principal in which case to the Chair of the Executive Board;
  - (b) An Investigator will be retained. The Investigator will have experience in investigating discrimination, harassment and sexual harassment complaints and will be independent, neutral, fair and unbiased. The Investigator will be retained by the College for the purposes of conducting a thorough, complete and fair examination of the relevant allegations, documents, witnesses, evidence and facts.
  - (c) The Investigator will:
    - (i) conduct a full investigation of the relevant allegations, documents, witnesses, evidence and facts in a timely fashion;

- (ii) prepare and provide to the Principal a Report on the evidence elicited from his/her investigation; and
  - (iii) express in the Report, his/her opinion, whether on the balance of probabilities, and based on the disputed and undisputed facts arising out of the Investigation, that there has been a violation of this Policy.
- 4.4 The Investigation shall include where possible, but will not be limited to, the following steps:
  - interviews with the Parties;
  - interviews with persons who may have observed the alleged conduct or may have other relevant knowledge.
- 4.5 All Parties and witnesses will be able to provide the Investigator Information in writing in addition to personal interviews.
- 4.6 The Complainant and the Respondent may be accompanied by a support person.
- 4.7 The Investigator shall conclude the Investigation within three (3) weeks of the initiation of the Formal Resolution Procedure or as soon practicable thereafter.
- 4.8 The Investigator will not give a legal opinion or provide suggestions for remedial action. The Investigator's opinion is not binding on the College but will be considered by the Principal when the Principal determines the appropriate action to be taken (if any) as a result of the findings of the Investigator.
- 4.9 The Principal shall review the Report and take any necessary remedial action. Any penalties and/or remedies will be in relation to the seriousness of any conduct found to breach this Policy and may include (but are not limited to):
  - (a) a verbal or written apology;
  - (b) a directive to cease and desist the behaviour with notice that failure to do so will lead to a further penalty;
  - (c) a mandatory program of education or counselling;
  - (d) restriction of access to a physical area of the College or barring from the College;
  - (e) suspension for a set time without pay or reimbursement; or
  - (f) dismissal or expulsion.

- 4.10 Remedial action will attempt to provide for redress with the possibility of resorting the Complainant to the position he/she would have been in had the discrimination, harassment or sexual harassment not occurred. Examples of redress include but are not limited to:
- (a) receipt of written apology;
  - (b) restoration of employment position or academic status;
  - (c) provision of counselling.
- 4.11 Any decisions regarding penalties and/or remedies shall be conveyed to the Respondent in writing. The Complainant will be provided information regarding:
- (a) Any findings of the Investigator which pertain directly to his/her complaint;
  - (b) Any remedies as ordered by the Principal if the Principal feels it is appropriate to disclose such remedies.
- 4.12 The College shall keep a copy of the Report in a confidential file as described at paragraph 1.5 of this Policy.