



Policy:	<b>HARASSMENT, SEXUAL HARASSMENT AND DISCRIMINATION PREVENTION</b>
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## **PURPOSE**

This policy shall provide all members of the Huron University College (Huron) Community with a clear definition of what constitutes harassment, sexual harassment, and/or discrimination pursuant to the *Ontario Human Rights Code* and the *Ontario Occupational Health and Safety Act* and describes internal processes available to deal with allegations of harassment, sexual harassment, and/or discrimination. Huron believes that the assessment and early intervention are key in preventing situations from escalating.

## **POLICY**

All individuals in the Huron community have the right to participate in Huron's activities – whether for academic reasons, for working purposes, or living accommodations – in an environment which is free of harassment, sexual harassment and/or discrimination.

In order to create and maintain an environment respectful of individual differences, which attempts to provide fair equality of opportunity with respect to education, employment, services, goods, facilities, and accommodation, harassment, sexual harassment and/or discrimination is strictly prohibited and will not be tolerated by Huron.

The members of the Huron community are committed to providing an environment which is free of harassment, sexual harassment and/or discrimination. In upholding that commitment, Huron has devised this prevention policy.

## **SCOPE**

The obligation to provide and maintain an environment free of harassment, sexual harassment, and/or discrimination is the shared responsibility of all members of the Huron community. This policy applies to staff, faculty, students, volunteers and any individuals, who work, study, live or visit the Huron campus.

This policy is to be construed and applied in accordance with the Huron's policy on Academic Freedom, the *Ontario Human Rights Code* and the *Ontario Occupational Health and Safety Act*. Nothing in this policy prevents Huron from implementing further equity measures or programs.

Huron recognizes and acknowledges its responsibility to deal quickly, fairly and effectively with harassment, sexual harassment and/or discrimination should they arise. In such an event, both

the rights of the individual bringing the complaint (Complainant) and those of the individual about whom the complaint is made (Respondent) will be safeguarded. To this end, Huron will ensure that the members of the Huron community are aware of this policy and will be proactive in undertaking a campaign for education and prevention.

## PRINCIPLES

### 1. Ontario Human Rights Code

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 Huron community are bound by the OHRC. In addition, Huron has devised this policy to complement rights provided under the OHRC. Any member of the Huron community has the right to seek redress pursuant to the provision of the OHRC whether or not he or she is also taking steps under this policy.

In accordance with the OHRC, every member of the Huron community has the right to freedom from harassment and discrimination while on Huron campus, whether for employment or educational purposes because of:

Age; Ancestry; Citizenship; Colour; Creed; Disability; Ethnic Origin; Family Status; Gender Expression; Gender Identity; Marital Status; Place of Origin; Race; Receipt of Public Assistance (housing only); Record of Offence; Sex; and Sexual Orientation.

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

**Harassment** can be defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

**Discrimination** can be defined as actions or behaviour that promote the differential treatment of an individual or group solely based on a prohibited ground(s) outlined above. These can be intentional or unintentional including systemic discrimination resulting from policies, practices, procedures, actions or inactions that appear neutral but have an adverse impact. Institutions are allowed to seek exemptions from this policy and the OHRC to operate special programs designed to benefit disadvantaged groups or individuals. Huron may also apply existing exemptions under the OHRC such as the ability to set bona fide job requirements – if these requirements are essential to the performance of the job.

In addition, the OHRC further outlines that every member of the Huron community has the right to freedom from harassment and discrimination because of sex, sexual orientation, gender identity and gender expression. Every person has the right to be free from:

- a) Sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

- b) A reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

## 2. Occupational Health and Safety Act

The *Occupational Health and Safety Act* (OHSa) defines **workplace harassment** as:

- a) Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome; or
- b) Workplace sexual harassment.

Harassment is any behaviour that demeans, humiliates, embarrasses, intimidates, or threatens a person; creates a hostile working environment; and that a reasonable person should have known to be unwelcome. Harassment may result from one incident or a series of incidents. Examples may include, but are not limited to:

- Making remarks, jokes or innuendoes that demean, ridicule, intimidate or offend;
- Displaying or circulating offensive pictures or materials in print or electronic form;
- Bullying;
- Repeated offensive or intimidating phone calls or e-mails;
- Workplace sexual harassment;
- Spreading malicious rumours; or
- Belittling another person's options or actions.

Harassment does not include any reasonable and valid action taken by Huron, or a supervisor related to the direction and/or supervision of staff and faculty that is part of the normal job function, even if there are unpleasant consequences for the staff or faculty member. Example may include, but are not limited to:

- Changes in work assignments or scheduling of work;
- Job assessment and evaluation processes;
- Workplace inspections;
- Implementation of Health and Safety measures; or
- Disciplinary action.

Differences of opinion or minor disagreements between co-workers would also not generally be considered workplace harassment.

The OHSa further defines/outlines **workplace sexual harassment** as:

- a) engaging in a course of vexatious comment or conduct against a worker, in a workplace 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 to the worker and the person knows or ought reasonably to know the solicitation or advance is unwelcome.

Sexual harassment involves unwelcome words or actions associated with sex, sexual orientation or gender that are that are known or ought reasonably to be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers, in a workplace. It can also include behaviour that intimidates or isolates individual(s). Examples of sexual harassment may include, but are not limited to:

- asking questions, talking, or writing about sexual activities;
- rough or vulgar humour or language related to sexuality, sexual orientation or gender;
- displaying or circulating pornography, sexual images, or offensive sexual jokes in print or electronic form;
- leering or inappropriate staring;
- invading personal space;
- unnecessary physical contact, including inappropriate touching;
- demanding hugs, dates, or sexual favours;
- making gender-related comments about someone's physical characteristics, mannerisms, or conformity to sex-role stereotypes;
- verbally abusing, threatening or taunting someone based on gender or sexual orientation; or,
- threatening to penalize or otherwise punish a worker if they refuse a sexual advance.

Where the conduct or behaviour includes inappropriate sexual touching, this may also constitute a criminal offence, such as sexual assault.

### 3. General

- a) Any staff or faculty member who becomes aware of conduct that may constitute a violation of this policy must inform the Vice Principal, Finance and Administration, or designate, immediately about such conduct. The Vice Principal, Finance and Administration, or designate, may as a consequence of this information initiate an investigation pursuant to this policy as per the Formal Resolution Procedure as described below.
- b) A staff, faculty or student may seek the support of other or additional resources to assist with addressing harassment, sexual harassment and/or discrimination. These resources may include, but are not limited to:
- Union / Faculty Association Representatives;
  - Human Resources;
  - Joint Health and Safety Committee;
  - Employee Assistance Programs and supports;
  - Huron Student Support Services;
  - Other external resources such as the Human Rights Legal Support Centre.

- c) This policy, definitions and examples provided are not intended to preclude legitimate classroom discussions on issues related to the prohibited grounds under the OHRC, OHSAA or on topics of a sexual nature.
- d) This policy is not intended to inhibit interactions or relationships based on mutual consent or normal social contact between staff, faculty or other members of the Huron community.

#### **POLICY MONITORING AND REVIEW**

The Vice Principal, Finance and Administration will submit to the Huron University Executive Board an annual, confidential report reviewing the year's proceedings including the number of cases resolved through the resolution channels, as the information is available. The report will also include observations concerning any aspects of the Policy that should be reviewed or altered.

#### **COSTS**

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 Huron in resolving any disputes.

#### **PREVENTION AND EDUCATION**

Huron will provide information and education to the community on harassment, sexual harassment and discrimination by developing and implementing an awareness program which may include:

- a) providing every staff, faculty, student, volunteer, and other individuals associated with Huron on a long-term or continuing basis with a copy this Policy;
- b) informing and educating managers, supervisors, and others in authority of their responsibilities and rights under this Policy, the *Ontario Human Rights Code*, and the *Occupational Health and Safety Act* specifically, to foster and maintain a work and educational environment that does not tolerate harassment, sexual harassment and/or discrimination;
- c) familiarizing managers, supervisors, and others in authority with the complaint procedures so that they may appropriately direct complaints of harassment, sexual harassment and/or discrimination to the most appropriate and responsible person at Huron;

- d) posting public signs at entrances and other high traffic areas within the Huron Campus 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 Huron community to increase awareness of harassment and discrimination issues.

## PROCEDURES

### 1. General

- a) Allegations of harassment, sexual harassment and/or discrimination reported to, or made known to Huron, 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.
- b) Nothing in this policy is intended to prevent a complainant from using an alternative procedure such as the *Ontario Human Rights Code*, *Occupational Health and Safety Act*, other policies, procedures outlined in any applicable collective agreement(s) or other legal action. If the complainant(s) chooses one of the alternative forms, a complaint under this policy may be held in abeyance until the alternate form has been abandoned by the complainant(s) or brought to a formal conclusion. Complainant(s) are encouraged to utilize the processes outlined within the policy before commencing legal or such similar action.
- c) A Complainant(s) or Respondent(s) may seek assistance from a support person.
- d) It is recognized that frivolous or vexatious complaints are themselves a form of harassment, and the Respondent(s) may have recourse to this Policy if he/she chooses to pursue the matter.

### 2. Confidentiality

Huron understands that it is difficult to come forward with a complaint of harassment, sexual harassment and/or discrimination and recognizes the individual's interest in keeping the matter confidential. To protect the interest of all involved, 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).

It is essential to the successful operation of this policy and procedure that all matters arising from any processes outlined in this policy be held in the strictest confidence. All parties and witnesses will be bound to confidentiality and must 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.

### 3. Retaliation/Reprisals and Vexatious Complaints

Retaliation / reprisals against a staff, faculty or student for filing a complaint, participating in any procedures or being associated with a person who filed a complaint under this policy shall be treated as harassment and are strictly prohibited and will not be tolerated. Any reprisals against a staff, faculty or student making a complaint in good faith is prohibited and unlawful. Anyone found through investigation to have participated in a reprisal will be subject to discipline up to and including termination of employment.

## COMPLAINT PROCEDURE

If a situation involving harassment, sexual harassment and/or discrimination has occurred, or is thought to have occurred, the options provided below are available to staff, faculty and students. The Complainant(s) shall decide at what option to start their complaint process.

Nothing in this policy is intended to prevent a complainant from using an alternative procedure such as the *Ontario Human Rights Code*, *Occupational Health and Safety Act*, other policies, procedures outlined in any applicable collective agreement(s) or other legal action.

Where the alleged harasser is the staff or faculty member's immediate supervisor or a member of the Management team, the staff or faculty member may seek the assistance of the Vice Principal, Finance and Administration, or designate.

### 1. Personal Complaint Resolution

Staff, faculty and students that believe they have been a victim or witness of harassment, sexual harassment, and/or discrimination are encouraged to speak directly to the person(s) responsible for the offending comment, conduct or behaviour. Make it known that their comment, conduct or behaviour is inappropriate, unwelcome and that you want it to stop

immediately. You are encouraged to make notes of the offensive behaviour, the date it happened, feelings it created, what was done about it, and who else was present.

If staff, faculty or students feel uncomfortable or that this method may be difficult or inappropriate, they are encouraged to take action through the informal complaint resolutions process outlined below.

## 2. Informal Complaint Resolution

Staff, faculty and students may wish to seek the assistance of their immediate supervisor or another member of the Management team if there are concerns speaking to the person directly, or if the person does not stop the offending behaviour after the personal resolution process. The immediate supervisor or other member of the Management team will discuss the complaint with the persons involved with the intent to reach a mutually acceptable resolution without recourse to a formal process.

## 3. Informal Mediation

If the Personal or Informal Complaint Resolution process is unsuccessful, or inappropriate the Complainant(s) may wish to proceed to Informal Mediation, and the following shall occur.

- a) The Complainant(s) will set out the complaint in writing, giving details of the alleged harassment, sexual harassment, and/or discrimination, including but not limited to dates, times, places, names of individuals involved in the incident(s), and names of witnesses. The complaint should be made as soon as possible following the alleged incident and must be dated and signed by the Complainant(s) and be submitted to the Vice Principal, Finance and Administration.
- b) Within one (1) week from the date of receipt of the written complaint, or as soon as practicable thereafter, the Vice Principal, Finance and Administration shall inform the Respondent(s) of the allegation(s) and shall provide the Respondent(s) 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 Vice Principal, Finance and Administration shall select a Mediator and shall receive agreement on the choice of Mediator from both the Complainant(s) and Respondent(s). The Mediator chosen must be unbiased and independent of both parties. This may be an internal or external resource.
- 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(s), Respondent(s) and Mediator. The Mediator will make a complete report to Huron, which will be kept in a confidential file.

The purpose of Informal Mediation is to seek a mutually satisfactory resolution of the issues between the Complainant(s) and the Respondent(s). The resolution may take a range of forms, from verbal apologies and personal undertakings to formal written minutes of settlement. Mediation is completely voluntary and must be agreed to by both parties.

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 Vice Principal, Finance and Administration or designate, 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 Vice Principal, Finance and Administration 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

The Complainant(s) may proceed to the Formal Resolution Procedure in the following circumstances:

- a) If the Complainant(s) chooses to proceed directly to the Formal Resolution Procedure at any point in time or process as outlined above;
- 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.

The Formal Resolution Procedure must be initiated within one (1) month of the occurrence of any of the events set out at (a), (b) or (c).

If the Formal Resolution Procedure is invoked, the following shall occur:

- a) The formal complaint should be made as soon as possible following the alleged incident and must be submitted in writing to the Principal. Where the complaint is against the Principal, it must be submitted to the Chair of the Executive Board. The formal written complaint must contain the following information:
  - The details of the alleged incident, and names of people involved;
  - Date(s), time(s), and location(s) of the events(s) that is being brought forward;
  - Any witnesses to the events(s)
  - Steps already taken to resolve the complaint;

- Any and all supporting documentation to the complaint; and
  - The date the complaint is being submitted and signature of the complainant.
- b) The Principal, or Board Chair in cases where the complaint involves the Principal, will appoint an investigator. The Investigator will have experience in investigating harassment, sexual harassment and/or discrimination complaints and will be independent, neutral, fair and unbiased. The Investigator will be retained by Huron for the purposes of conducting a thorough, complete and fair examination of the relevant allegations, documents, witnesses, evidence and facts. The investigator may be an internal or external resource, including legal counsel to protect information received during the investigation under client-attorney privilege.

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, or Board Chair, 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. If there is insufficient evidence to substantiate the complaint, the investigator will also make a determination as to whether or not the complaint was vexatious.
- c) The Investigation shall include where possible, but will not be limited to, the following steps:
- (i) Gathering all the important and relevant information from the Complainant and Respondent;
  - (ii) Conducting interviews with the Complainant(s), Respondent(s), Witnesses and any other person(s) who may have observed the alleged conduct or may have other relevant knowledge.
  - (iii) Receive additional information from all parties relevant to the investigation in addition to personal interviews.
  - (iv) Based on the evidence provided through the investigation, reach a decision on whether or not the allegation of harassment, sexual harassment and/or discrimination occurred;

The Complainant(s) and the Respondent(s) may be accompanied by a support person.

The Investigator shall conclude the Investigation within three (3) weeks of the initiation of the Formal Resolution Procedure or as soon practicable thereafter.

The Complainant(s) and the Respondent(s) will be provided the opportunity to review the report and will be advised in writing of the results of the investigation as well as any corrective action resulting from the investigation.

The Investigator will not give a legal opinion, unless professionally qualified to do so, but may provide suggestions for remedial action. The Investigator's opinion and/or suggestions are not binding on Huron but will be considered by the Principal when the Principal determines the appropriate action to be taken as a result of the findings of the Investigator.

The Principal will 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 Huron or barring from the Huron Campus;
- e) suspension for a set time with/without pay or reimbursement; or
- f) Termination of employment or expulsion.

Remedial action will attempt to provide for redress with the possibility of restoring the Complainant(s) to the position he/she would have been in had the harassment, sexual harassment and/or discrimination not occurred.

Any decisions regarding penalties and/or remedies shall be conveyed to the Complainant and Respondent in writing.

## **EVALUATION**

This policy will be reviewed on an annual basis to ensure that it conforms to any changes in legislation and any associated regulations and to ensure it continues to address the needs of Huron.