



Interim Workplace Harassment & Discrimination Policy

Category: Human Resources

Approval: *Vice-Principal's Operations Committee*

Responsibility: *Director and Counsel, Employee and Labour Relations*

Date: *Date initially approved:*
August 22, 2016

1. Definitions

- 1.1. "Campus Security" refers to Queen's University Campus Security and Emergency Services.
- 1.2. "Complainant" refers to an Employee who alleges they have experienced Discrimination and/or Harassment under the *Interim Workplace Harassment & Discrimination Complaints Procedure*. A Complainant may experience discrimination directly or indirectly.
- 1.3. "Complaint" refers to an allegation of Harassment and/or Discrimination in the workplace that is pursued under the *Interim Workplace Harassment & Discrimination Complaints Procedure* by a Complainant.
- 1.4. "Complaints Process" refers to the University's process for handling complaints of Discrimination and/or Harassment, as established under the *Interim Workplace Harassment & Discrimination Complaints Procedure*. The Complaints Process can only be initiated by an Employee who has allegedly experienced Discrimination and/or Harassment. A separate procedure--the Reporting Process--is available to those who do not allege having experienced Discrimination or Harassment for reporting information about Discrimination and/or Harassment in the workplace.
- 1.5. "Discrimination" is a distinction without lawful justification, whether intentional or not, which has the effect of denying benefits to, or otherwise disadvantaging, an Employee in the course of their employment on the basis of a Protected Ground (defined and listed below).
- 1.6. "Discriminatory Harassment" means engaging in a course of vexatious comment or conduct, directed at an Employee in the course of their employment, based on a Protected Ground, that is known or ought reasonably to be known to be unwelcome. Discriminatory Harassment may include, for example, racist jokes, sexual harassment or gender-based harassment.

- 1.7. "EHS" means the Department of Environmental Health & Safety at Queen's University.
- 1.8. "Employee" means any individual employed by Queen's University.
- 1.9. "Faculty Relations Office" means the Faculty Relations Office within the Office of the Provost and Vice-Principal (Academic) at Queen's University.
- 1.10. "FIPPA" means the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c. F.31.
- 1.11. "Harassment" includes Discriminatory Harassment, Workplace Harassment, and Workplace Sexual Harassment.
- 1.12. "Human Resources" means the Department of Human Resources at Queen's University.
- 1.13. "Human Rights Office" or "HRO" means the Human Rights Office at Queen's University.
- 1.14. "Ombudsman" means the Office of the University Ombudsman at Queen's University.
- 1.15. "Personal Information" means information about an identifiable individual, as defined in s. 2 of the *Freedom of Information and Protection of Privacy Act*, as amended from time to time.
- 1.16. "Person(s) of Authority" includes any person who has charge of a workplace or authority over an Employee.
- 1.17. "Policy" refers to this *Interim Workplace Harassment & Discrimination Policy*.
- 1.18. "Protected Ground" includes race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, Record of Offences, marital status, family status or disability, and any additional protected grounds that are added to the Ontario *Human Rights Code* by way of statutory amendment.
- 1.19. "Record of Offences" means a conviction for,
 - 1.19.1. an offence in respect of which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked, or
 - 1.19.2. an offence in respect of any provincial enactment.
- 1.20. "Report" refers to information about Harassment and/or Discrimination in the workplace that is reported under the *Interim Workplace Harassment & Discrimination Information Reporting Procedure*.
- 1.21. "Reporting Process" refers to the process for reporting information about Harassment and/or Discrimination in the workplace under the *Interim Workplace*

Harassment & Discrimination Information Reporting Procedure. This Reporting Process is the appropriate process for individuals who do not allege having experienced Discrimination or Harassment to report information about Discrimination and Harassment in the workplace of which they become aware.

- 1.22. **"Respondent"** refers to anyone who is alleged to have engaged in behaviours of Discrimination and/or Harassment in a Report or Complaint.
- 1.23. **"University"** means Queen's University at Kingston.
- 1.24. **"Workplace"** means any place where Employees engage in employment activity, including employment activities outside the normal place of work, and employment activities that occur outside of normal working hours.
- 1.25. **"Workplace Harassment"** means 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, and includes Workplace Sexual Harassment. Workplace Harassment may include, for example, bullying. A reasonable action taken by Queen's University or a Person of Authority relating to the management and direction of an Employee or a workplace is not Workplace Harassment.
- 1.26. **"Workplace Sexual Harassment"** means engaging in a course of vexatious comment or conduct against an Employee 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 making a sexual solicitation or advance to any Employee. This includes, but is not limited to, sexual solicitations or advances in which the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the Employee and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. Sexual Harassment may include, for example, unwelcome sexual advances.

2. Purpose / Reason for Policy

- 2.1. The purpose of this Policy is to prevent Discrimination and Harassment in the workplace through education and other proactive measures, and to ensure that the University effectively addresses and responds to Reports and Complaints of Discrimination and/or Harassment in the workplace.
- 2.2. This Policy is designed to support the University's commitment to preventing Workplace Discrimination and Harassment (See section 4.1 of this Policy) and to satisfy legal requirements concerning Discrimination and Harassment in the workplace, including requirements of the *Human Rights Code* and the *Occupational Health and Safety Act*.

3. Scope of this Policy / Policy Overlap

- 3.1. This Policy applies to all Employees in the course of their employment, and is intended to address Discrimination and/or Harassment of Employees from all sources, including students, colleagues, coworkers, supervisors, managers, administrators, other members of the University community, and the public.
- 3.2. This Policy currently overlaps with several existing University policies, procedures and collective agreements. The University will administer the overlap according to the following principles:
 - 3.2.1. This Policy and related procedures will be applied to all incidents in which an Employee has allegedly experienced, or engaged in, Discrimination and/or Harassment to ensure the University satisfies its commitment as stated in section 4.1 below and its obligations under legislation and collective agreements.
 - 3.2.2. Where a Complainant chooses to pursue his or her allegations under another policy or procedure, the University will nevertheless ensure that the standards relating to investigations, and the communication of investigation outcomes, set out under this Policy and related procedures are upheld.
 - 3.2.3. Those who are obliged to disclose information under this Policy and related procedures must comply with disclosure obligations regardless of whether other policies and procedures are being implemented.
 - 3.2.4. Where it is alleged that a student has engaged in Discrimination and/or Harassment in the course of University employment (e.g. as a teaching assistant), the matter will be addressed under this Policy and related procedures.
 - 3.2.5. Where it is alleged that a student has, in their capacity as a student, engaged in Discrimination and/or Harassment against an Employee, the matter will be addressed under the *Queen's University Student Code of Conduct, 2016* and related procedures. However, in such cases, Human Resources and/or Faculty Relations will nevertheless be consulted in the process to ensure any investigation and/or corrective action satisfy the standards set out this Policy.
- 3.3. This Policy is not geographically limited, and applies to any employment activity, including employment activities that occur outside the normal place of work, and employment activities that occur outside of normal working hours.
- 3.4. This Policy applies to the recruitment and promotion of Employees.
- 3.5. This Policy does not override or diminish the rights provided to Employees under applicable collective agreements, and will be applied with appropriate regard to the rights established under collective agreements, where applicable.
- 3.6. This Policy does not preclude Employees from pursuing resolution through external resources and processes, including those offered by the Human Rights Legal

Support Centre, the police, the Ontario Labour Relations Board, the Ontario Human Rights Commission and the Human Rights Tribunal of Ontario.

4. Policy Statement

- 4.1. The University is committed to providing a work environment in which all Employees are treated with dignity, and to fostering a climate of understanding and mutual respect for the value of each Employee. To this end:
 - 4.1.1. The University will not tolerate Discrimination or Harassment in the workplace.
 - 4.1.2. The University will provide information and instruction to Employees with respect to Discrimination and Harassment in the workplace.
 - 4.1.3. The University will ensure Persons of Authority are provided with information and instruction that will enable them to recognize, assess and address Discrimination and Harassment in the workplace, and to understand how to respond appropriately when such incidents are alleged.
 - 4.1.4. The University will not penalize an Employee for submitting a Report or Complaint in good faith, or for participating in a related investigation. This protection does not apply to an Employee who submits a Report or a Complaint that is determined to be frivolous or vexatious, or who exhibits bad faith in the course of an investigation. An Employee who believes they have been penalized for submitting a Report or Complaint in good faith, or for participating in a related investigation, may pursue the allegation of reprisal by submitting a Complaint under the *Interim Workplace Harassment & Discrimination Complaints Procedure*.
 - 4.1.5. The University will respect the privacy of individuals involved in Complaints or Reports, ensuring information about a Complaint or Report is not disclosed, except to the extent necessary to investigate, take corrective action, implement measures to protect the health and safety of Employees, or as otherwise required by law. Personal Information collected under this Policy will be used only for the purposes of administering this Policy, and will be disclosed only on a need-to-know basis, to the extent disclosure is required to fulfill the University's legal obligations under the *Human Rights Code* and the *Occupational Health & Safety Act*. Subject to applicable law, Personal Information collected, used and disclosed under this Policy will otherwise be kept confidential, and will be stored and disposed of in accordance with FIPPA.
 - 4.1.6. The University will administer the processes set out in the *Interim Workplace Harassment & Discrimination Complaints Procedure* and the *Interim Workplace Harassment & Discrimination Information Reporting Procedure*, responding to Complaints and Reports fairly and promptly, with adequate regard to the unique circumstances of each particular case, and

in a manner that strikes a balance between the privacy of individuals and the severity of the matters at issue.

- 4.1.7. The University will inform and update individuals who are involved in investigations about the status of those investigations as they progress.

5. Roles & Responsibilities:

5.1. Department of Environmental Health & Safety

- 5.1.1. EHS is primarily responsible for overseeing compliance with the *Occupational Health & Safety Act*, including requirements related to Workplace Harassment.
- 5.1.2. EHS is responsible for providing Employees with appropriate information and instruction with respect to Workplace Harassment, including notifying them of this Policy and its related procedures.
- 5.1.3. EHS will ensure all Persons of Authority are provided with information and instruction that will enable them to recognize, assess and address Workplace Harassment in their respective workplaces, and will ensure Persons of Authority are aware of this Policy and related procedures.
- 5.1.4. EHS may initiate a Report under the *Workplace Harassment & Discrimination Information Reporting Procedure* in response to information concerning Discrimination and/or Harassment in the workplace.
- 5.1.5. EHS will ensure that copies of this *Interim Workplace Harassment & Discrimination Policy* and related procedures are posted on the established health and safety bulletin boards where it is likely to come to the attention of Employees.

5.2. Department of Human Resources

- 5.2.1. On behalf of the University, members of the Employee/Labour Relations unit, Human Resources Department, are primarily responsible for receiving and responding to Complaints and Reports. A Complaint may be submitted to Human Resources directly by a Complainant. A Report may be submitted by an Employee, a Person of Authority, the Faculty Relations Office, the Human Rights Office, or a bargaining agent certified to represent Employees.
- 5.2.2. Human Resources may initiate its own Report in response to information concerning Discrimination and/or Harassment in the workplace, and will apply the same process to such Reports in accordance with the *Workplace Harassment & Discrimination Information Reporting Procedure*.

- 5.2.3. Human Resources will ensure the Faculty Relations Office is fully advised, where appropriate, of information related to Reports and Complaints. See paragraph 5.4 for further details.
- 5.2.4. Unless it is agreed that the Faculty Relations Office will assume primary responsibility in a particular case, Human Resources will ensure appropriate steps are taken in response to Reports and Complaints.
- 5.2.5. Human Resources will ensure the outcome of an investigation under this Policy, and corrective actions taken (if any), are communicated in writing to Respondent(s) who are Employees, and to Complainant(s).
- 5.2.6. Human Resources will ensure that copies of this *Interim Workplace Harassment & Discrimination Policy* and related procedures are posted on the Human Resources website.
- 5.2.7. Human Resources will take primary responsibility for maintaining this Policy and related procedures. To this end, Human Resources will ensure that this Policy, and all related procedures, are reviewed as often as is necessary, and in any event, at least annually. Human Resources will consult the University's Joint Health & Safety Committees and as appropriate with the HRO, EHS and others with respect to this Policy.

5.3. Employees

- 5.3.1. Employees must not engage in Discrimination or Harassment.
- 5.3.2. Employees are encouraged to report incidents of Discrimination and Harassment by communicating the incidents to their supervisor. If the Employee's supervisor is involved in the incidents at issue, the information should be reported directly to the administrator who the Employee's supervisor reports to, or directly to Human Resources.
- 5.3.3. Where it is requested, Employees shall participate in the Complaints Process, the Reporting Process, and/or any related investigation.
- 5.3.4. Employees who are found to have engaged in Discrimination and/or Harassment under this Policy will comply with the corrective measures imposed by the University.

5.4. Faculty Relations Office, Office of the Provost and Vice-Principal (Academic)

- 5.4.1. When it is determined that the Faculty Relations Office will take primary responsibility for a Complaint or Report, the Faculty Relations Office will ensure the Complaint or Report is appropriately addressed. It is presumed that the Faculty Relations Office will take primary responsibility of any case in which the Respondent in a Complaint or Report is a member of one of the following bargaining units:

- 5.4.1.1. Queen's University Faculty Association
- 5.4.1.2. Public Service Alliance of Canada, Local 901 (Unit 1 - Graduate Teaching Assistants and Teaching Fellows)
- 5.4.1.3. Public Service Alliance of Canada, Local 901 (Unit 2 - Postdoctoral Fellows)
- 5.4.1.4. Any other bargaining unit that is assigned by the University to the Faculty Relations Office in the future.
- 5.4.2. Although it is presumed that the Faculty Relations Office will take primary responsibility when the Respondent in a Complaint or Report is a member of one of the above bargaining units, there may be exceptional cases. Primary responsibility will ultimately be determined on a case-by-case basis. In some cases, it will be necessary for Human Resources and the Faculty Relations Office to work collaboratively. In any event, the Faculty Relations Office will be available to assist Human Resources with respect to any potential issues arising in a bargaining unit or under a collective agreement in respect of which the University has assigned responsibility to the Faculty Relations Office.
- 5.4.3. The Faculty Relations Office may initiate a Report under the *Workplace Harassment & Discrimination Information Reporting Procedure* in response to information concerning Discrimination and/or Harassment in the workplace.
- 5.5. Human Rights Office
 - 5.5.1. The HRO is responsible for raising awareness with respect to issues of Discrimination and Discriminatory Harassment, and for promoting a climate of understanding and mutual respect for all members of the University community.
 - 5.5.2. The HRO is available to provide information to Employees who perceive Discrimination or Discriminatory Harassment in the workplace, and to ensure Employees are fully aware of this Policy and related procedures, as well as procedural alternatives.
 - 5.5.3. The HRO does not initiate the Complaints Process on behalf of Employees or adjudicate Complaints, nor does it serve as an advocate for individuals in the Complaints Process.
 - 5.5.4. The HRO provides a confidential service. The HRO will share information with Human Resources and/or the Faculty Relations Office when it is required to do so pursuant to a procedure under this Policy. For further details, see the *Interim Workplace Harassment & Discrimination*

Complaints Procedure and the Interim Workplace Harassment & Discrimination Information Reporting Procedure.

5.6. The University Ombudsman

- 5.6.1. The Ombudsman provides an independent, impartial and confidential office through which members of the University community may seek assistance in the pursuit of resolving University-related concerns. This may include, for example, providing advice and support to a witness or Respondent involved in the investigation of a Report or Complaint.
- 5.6.2. The Ombudsman may initiate a Report, but does not adjudicate Complaints or initiate the Complaints Process on behalf of Employees, nor does it serve as an advocate for individuals in the Complaints Process.
- 5.6.3. The Ombudsman provides a confidential service. The Ombudsman will share information with Human Resources and/or the Faculty Relations Office when it is required to do so pursuant to a procedure under this Policy. For further details, see the *Interim Workplace Harassment & Discrimination Complaints Procedure* and the *Interim Workplace Harassment & Discrimination Information Reporting Procedure*.

5.7. Persons of Authority

- 5.7.1. Persons of Authority shall lead by example, acting respectfully in dealings with all Employees.
- 5.7.2. Persons of Authority are responsible for familiarizing themselves with this Policy, and for directing Employees who have information about Discrimination and/or Harassment in the workplace to follow the appropriate procedures.
- 5.7.3. Persons of Authority will ensure Employees are aware of this Policy and its associated procedures, and must otherwise assist in the prevention of Discrimination and Harassment in the workplace.
- 5.7.4. Persons of Authority have a responsibility to recognize, assess and address Discrimination and/or Harassment. For example, Persons of Authority should intervene promptly when they become aware of Discrimination and/or Harassment, and should seek assistance from Human Resources.
- 5.7.5. When a Person of Authority becomes aware of information about Discrimination and/or Harassment in the workplace, that Person of Authority must ensure the information is reported to Human Resources in the form of a Report or Complaint. For further details, see the *Interim Workplace Harassment & Discrimination Information Reporting Procedure*.

Contact Officer	<i>Director and Counsel, Employee and Labour Relations</i>
Date for Next Review	September 8, 2017
Related Policies, Procedures and Guidelines	<i>Interim Workplace Harassment & Discrimination Complaints Procedure; Interim Workplace Harassment & Discrimination Information Reporting Procedure; Queen's University's accessibility policies; Return to Work and Accommodation Policies; Sexual Violence Policy; Queen's Policy Against Campus Violence; Harassment/Discrimination Complaint Policy and Procedure; Queen's University Policy and Procedures for Safe Disclosure Reporting and Investigation.</i>
Policies Superseded by This Policy	<i>Prevention and Resolution of Harassment in the Workplace</i>