

Procedure for Dealing with Complaints of Harassment or Discrimination

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- (1) These procedures are not intended to extinguish rights and remedies available at law, including grievance, to any of the parties or persons concerned.
- (2) In order to help facilitate the informal resolution of harassment or discrimination issues and treat Complainants and Respondents fairly, reasonable steps will be taken throughout these procedures so that only those who need to be made aware of a complaint in order to administer or participate in these procedures are provided with information about a complaint. Further, all memoranda and reports made in the course of action taken pursuant to these procedures shall be considered to be confidential to the parties involved and to those who, in providing advice and carrying out duties contemplated in these procedures, have a need to know of their existence and content.
- (3) The Complainant (and the Respondent, where appropriate) shall be informed by the Centre for Human Rights (the "Centre") that an advocate of their choice may accompany them throughout the process described below.
- (4) An individual who believes she/he is being harassed or discriminated against on a prohibited ground set out in the Collective Agreement shall discuss the incident(s) with the Centre. Managerial/supervisory employees who receive a complaint about harassment or discrimination by an individual on a prohibited ground set out in the Collective Agreement will provide that person with a copy of these procedures and assist that person in making an appointment to discuss the incident(s) with the Centre. Managerial/supervisory employees who receive a complaint shall prepare a brief written memorandum to the Centre setting out the date and time the Complainant first contacted them, and confirming that they gave the Complainant a copy of these procedures and assisted the Complainant in making an appointment with the Centre and will forward this Memorandum to the Centre forthwith. Managerial/supervisory employees shall not keep copies of such memoranda.
- (5) Normally, within ten (10) working days following this discussion the Centre shall make a preliminary determination as to whether the complaint is one which:
 - (a) is based on facts which have occurred more than one (1) year prior to the date of the lodging of the complaint; or
 - (b) might be resolved informally; or
 - (c) might be resolved by mediation; or
 - (d) might not be resolved informally or by mediation and requires a formal complaint and investigation; or
 - (e) is trivial, frivolous, vexatious or made in bad faith.
- (6) Where it appears to the Centre that the facts upon which the complaint is based occurred more than one (1) year before the complaint is made, unless the Centre is satisfied that the delay was incurred in good faith, the Centre may recommend that the University not deal with the complaint. Any individual who believes she/he is being harassed or discriminated against on a prohibited ground set out in the Collective Agreement is encouraged to come forward with a complaint as soon as possible.

(7) If, in the opinion of the Centre, the complaint is trivial, frivolous, vexatious or made in bad faith, it will so advise the Complainant and may decline to assist the Complainant further.

(8) Informal Resolution

- (a) If the matter is one which, in the opinion of the Centre and the Complainant, might be resolved informally, the Centre will use its reasonable efforts to assist the parties involved in effecting an informal resolution which, if achieved, will be the end of the process. The parties to any such resolution may include the Respondent and (where required or desirable) representatives of the union(s) of which each of the Complainant and Respondent are members and the University represented by a manager.
- (b) Advice given to a Complainant concerning informal resolution will be reflected in a memorandum prepared by the Centre and acknowledged by the Complainant. If the Complainant names the Respondent and the Respondent is named in the memorandum, the Respondent must be notified.
- (c) At any point in the process, either party may request mediation or a formal investigation.

(9) Mediation

- (a) If the matter is one which, in the opinion of the Centre, the Complainant and the Respondent might be resolved by mediation, the parties will be referred to mediation. Within ten (10) working days of such referral, a mediator will be appointed from among a panel of internal mediators agreed upon by the Employer and the Association. Within ten (10) working days the mediator will then coordinate a meeting between the mediator and the parties involved.
- (b) The parties to any such mediation will include the Complainant and Respondent, representatives of the union(s) of which each of the Complainant and Respondent are members, the University (represented by the manager(s) of the area(s) in which each of the Complainant and Respondent are employed) and a representative of any other department that will be affected by the result of the mediation.
- (c) The outcome of the mediation will result in one of the following:
 - (i) No resolution is reached and the Complainant decides to withdraw the allegation and take no further action.
 - (ii) A resolution is reached, written up and signed by all parties to the mediation. The Centre and each of the parties to the mediation shall receive a copy.
 - (iii) No resolution is reached and the Complainant requests that the matter proceed to the Formal Complaint and Investigation stage.

(10) Formal Complaint and Investigation

- (a) If a matter is one which, in the opinion of the Centre, could not be appropriately dealt with by informal resolution or mediation, or has not been resolved by either informal resolution or mediation within a reasonable time, the Centre will upon request assist the Complainant in preparing a formal complaint. A formal complaint will be in writing and signed by the Complainant, and, where appropriate, includes a complaint contained in a grievance under a Collective Agreement.
- (b) A copy of the formal complaint will be promptly forwarded to the Respondent and to the Dean/Principal/University Librarian/Vice-President in whose area the Respondent is employed and if the Complainant is an employee, to the Dean/Principal/University Librarian/Vice-President in whose area the Complainant is employed.
- (c) The Respondent may submit a written response to the formal complaint to the appropriate Dean/Principal/University Librarian/Vice-President within ten (10) working days of receiving a

copy of the formal complaint.

- (d) Within fifteen (15) working days of receiving a formal complaint and the response, if any, the Dean/Principal/University Librarian/Vice-President shall determine whether a formal investigation is warranted, and if so will appoint an investigator from a list of internal and external investigators agreed to by the Employer and the Association to look into and report on the facts surrounding the formal complaint. The investigator shall promptly conduct an investigation of the allegations giving rise to the complaint and compile a draft investigation report (normally within thirty (30) working days). The investigator will have had no previous involvement with the complaint in any of the processes under this Appendix prior to the appointment of the investigator.
- (e) Upon receiving a formal complaint against an employee in his/her area the Dean/Principal/University Librarian/Vice-President will promptly (in consultation with the employee and/or Employee Relations, or with other University officials as appropriate) make a decision as to what remedial action, if any, should take place in the workplace while the investigation is taking place. The investigation report will not give any direction with respect to disciplinary action.
- (f) The investigator shall apprise the Complainant and Respondent of progress toward completion of the investigation and shall provide a copy of the draft investigation report to each of the Complainant and the Respondent, who shall have ten (10) working days in which to notify the investigator, in writing, of any errors or omissions in the report and the description of the facts or allegations provided by each of them to the investigator.
- (g) The investigator shall forthwith after receiving any comment provided for above make such further enquiries, if any, as are necessary and prepare a final investigation report. The final report will not draw any conclusions with respect to disciplinary action. A copy of the investigation report will be given to the Centre, the Complainant, the Respondent, representatives of the union(s) of which each of the Complainant and Respondent are members, and the University.

(11) **Administrative Action**

- (a) Within twenty (20) working days of the receipt of the investigation report, the President or Dean/Principal/University Librarian/Vice-President in whose area the Respondent is employed shall consult as appropriate and shall make and communicate a decision or give directions on:
 - (i) what remedial action, if any, shall be taken or continued in the Respondent's workplace in the circumstances;
 - (ii) whether the facts as revealed in the investigation report are such that some managerial action is warranted in the circumstances, and if so what managerial action (including the disposition of a grievance, disciplinary action or discharge) is so warranted.
- (b) A copy of the decision shall be sent to the Centre and to each of the Complainant and the Respondent, and representatives of the union(s) of which each of the Complainant and Respondent are members.

(12) **Reprisal**

No person shall be penalized in employment for bringing forward a complaint in good faith, or for cooperating in the resolution or investigation of any complaint.

(13) **Penalties for Vexatious or Bad Faith Complaints**

Individuals who make a complaint against another person in bad faith or for a vexatious purpose may be subject to disciplinary action.