

Dalhousie University's Sexual Harassment Policy

Part One

Policy Statement

- 1) The University occupies a special place in society as an intellectual community with a responsibility for the discovery and sharing of knowledge. This aspiration demands a commitment to an atmosphere of reciprocal respect among all members of the university community. Sexual harassment potentially undermines the full and free participation of all members of the community by negatively impacting on an individual's employment conditions or academic status or performance or by creating an intimidating, hostile or offensive working or academic environment.

Dalhousie University does not tolerate sexual harassment of any kind. Indeed, the University regards sexual harassment as unacceptable behaviour that is subject to a wide range of disciplinary measures, including dismissal or expulsion from the University.

All members of the University community have a responsibility to ensure that the University's working and learning environment is free from sexual harassment. Administrative Heads, as defined in section 27 of this policy, bear the primary responsibility for encouraging and maintaining a working and learning environment free from sexual harassment. They are free to act, and should act, on this responsibility, whether or not they are in receipt of individual complaints. It is the obligation of Administrative Heads to be familiar with this policy and, where appropriate, to undertake training, in order to ensure that they are able to fulfill these responsibilities.

Part Two

Purpose

- (2) The purposes of this policy are:

- (a) to be educational, in that its existence will increase awareness of and sensitivity to the negative impact of sexual harassment;

- (b) to prevent sexual harassment by indicating the seriousness with which Dalhousie University views this issue;

- (c) to provide fair procedures for handling complaints when they do occur.

Part Three

Application of the Policy

- 3) This policy prohibits sexual harassment by any member of the University community. Any student or employee may make a complaint of sexual harassment against another student or employee. Students and employees include former students and employees raising allegations of sexual harassment which occurred while they were still members of the university community, respecting time limits as defined in section 49.
- 4) This policy applies to incidents of sexual harassment that occur in the course of work or study or participation in university-sponsored organizations, activities and programs, whether they occur on-campus or off-campus. Examples of off-campus settings include, but are not limited to, field trips, athletic team road trips, conferences or training events, and university-sponsored social functions.
- 5) Persons who are not employees or students of the University (hereafter called "Third Parties") may have concerns about sexual harassment and are encouraged to express their concerns to the Advisor, Harassment Prevention/Conflict Management. The Advisor, Harassment Prevention/Conflict Management will advise the person raising the concern and, where appropriate, refer the matter to the appropriate individual or unit within the University. In appropriate circumstances, these procedures may be used where a Third Party makes a complaint against a student or employee who was involved in the course of her/ his work or study or participation in University-sponsored organizations, activities and programs. Third Parties include, but are not limited to, contractors, their employees and agents; vendors of goods and services to the University, their employees and agents; visitors to the University; volunteers; grant-paid employees; post-doctoral fellows; chaplains; persons in the community guiding practicum and internship placements, and others with similar connections to the University.
- 6) The procedures referred to in sections 15 and 17-40, inclusive, of this policy do not apply to Third Parties against whom a complaint is made. However, such persons are expected to conduct themselves in any University-related activity in a manner consistent with this policy. Allegations of sexual harassment against a Third Party will be dealt with by the University as unacceptable behaviour that may result in suspension of University privileges, such as access to campus, or other appropriate action. Such allegations should be reported to the Advisor, Harassment Prevention/Conflict Management.
- 7) This policy will not be applied or interpreted in such a way as to detract from the right of those in supervisory roles to manage and discipline employees and students in accordance with normal University practices, or from any existing rights or obligations contained within any existing code of student conduct, collective agreement or other approved employee agreement.
- 8) This policy is to be interpreted and administered in a way that is consistent with the principles of academic freedom. Neither this policy in general, nor its definitions in particular, are to be applied in such a way as to detract from the right of faculty, staff, and students to engage in the frank discussion of potentially controversial matters, such as age, race, politics, religion, sex, sexual orientation and gender identity. These are legitimate topics and no University policy should have the effect of limiting discussion of them or of prohibiting instructional techniques, such as the use of irony, the use of conjecture and refutation, or the assignment of readings that advocate controversial positions, provided that such discussion and instructional techniques are conducted in a mutually respectful and non-coercive manner.

- 9) Notwithstanding the existence of this policy, every person continues to have the right to seek assistance from the Nova Scotia Human Rights Commission or, where a criminal act is involved, the police, even when actions are being taken under this policy.

Part Four

Definition

- 10) Sexual harassment is defined as any sexually-oriented behaviour of a deliberate or negligent nature which adversely affects the working or learning environment. It may involve conduct or comments that are unintentional as well as intentional. It includes, but is not limited to:
 - a) sexual solicitation or advance of a repeated, persistent or abusive nature made by a person who knows or ought reasonably to know that such solicitation or advance is unwanted;
 - (b) implied or expressed promise of reward for complying with a sexually-oriented suggestion;
 - (c) actual reprisal or denial of opportunity, or an expressed or implied threat of reprisal or denial of opportunity, for a refusal to comply with a sexually-oriented suggestion;
 - (d) sexually-oriented remarks or behaviour by a person who knows or ought reasonably to know that such remarks or behaviour may create a negative psychological or emotional environment for work, study or participation in a University-related activity or program. Such remarks or behaviour may include, but are not limited to, suggestive and/or derogatory comments, sounds or gestures emphasizing sex or sexual orientation; suggestive staring; inappropriate displays or distribution of sexually suggestive pictures, objects, writing or graffiti, including electronic and hard copy forms; persistent unwanted contact after the end of a consensual relationship; unnecessary or unwanted physical contact of a sexual nature such as patting, touching, pinching or brushing against; and sexual assault.
- 11) Sexual harassment can occur between individuals of the same or different status, and both women and men can be the subject of sexual harassment by members of either gender. Sexual harassment can involve individuals or groups; can occur during one incident, if of sufficient severity, or over a series of incidents involving single incidents, which, in isolation, would not necessarily constitute sexual harassment.

Part Five

Procedures for Complaints

- 12) Anyone may anonymously seek the advice and assistance of the Advisor, Harassment Prevention/Conflict Management in the Office of Human Rights, Equity & Harassment Prevention (“Advisor”) regarding this Policy.
- 13) For the purposes of addressing allegations of sexual harassment, the Advisor’s role is to provide information on the Policy to persons bringing forward a complaint and persons named as respondents during all stages of the process. The Advisor will also assist Administrative Heads and others seeking direction in the handling of Complaints.

For example, the Advisor shall assist individuals in identifying concerns, and in considering the applicability of various options. The Advisor shall provide individuals seeking advice with information on and access to the policy and shall make them aware of the availability of counseling services, EFAP, and other resources as appropriate.

- 14) Complaints of sexual harassment may be made by any member of the University Community who believes she or he has been sexually harassed. Individuals should bring forward complaints as soon as possible after the incident or incidents giving rise to the complaint in order that the most thorough and fair consideration of the matter may occur. There are time limits on making complaints (see section 49).
- 15) Alleged incidents of sexual harassment can be resolved through:
 - (a) informal resolution procedure; or
 - (b) formal complaint procedure.
- 16) At any time, complainants may choose to withdraw from the process. Nevertheless the Administrative Head may undertake a review of the work or study environment.

A. Informal Resolution Procedure

- 17) The purpose of the informal resolution procedure is to resolve complaints between the parties. The informal resolution procedure will not involve a finding that sexual harassment has or has not occurred.
- 18) Unless the parties agree otherwise, all discussions and resolutions reached through the informal procedure will be strictly confidential and carried out on a without prejudice basis.
- 19) No written complaint is required to commence the informal procedure. The options available under the informal procedures are numerous and will vary depending on the nature of the complaint.
- 20) Examples of informal actions may include, but are not limited to:
 - a) Communicate concerns directly – advise the other party that his/her behaviour is unwelcome and unwanted, and that the behaviour must stop immediately;
 - b) Communicate concerns in writing to the other party – describe the offending behaviour, the impact of the behaviour, and request that the behaviour stop immediately;
 - c) Contact the Administrative Head, as defined in section 27, to address issues;
 - d) Work with the Advisor, Harassment Prevention/Conflict Management, to develop strategies to address concerns;
 - e) Informal mediation - pursue, through the Supervisor/Manager, Department Head/Chair, or Advisor, the setting up of informal mediation, shuttle mediation, or the use of neutral interveners who will attempt to bring the parties to a mutual resolution of the matter.

- 21) The complainant may, at any time prior to the matter being concluded or closed, choose to pursue the formal complaint procedure under this policy.
- 22) No informal action that adversely affects the academic, employment or professional interests of the respondent shall proceed under the informal procedure without the knowledge and consent of the respondent.
- 23) No record of an informal procedure shall be entered into the academic or employment file of the complainant or the respondent, or in the case of a DFA Member, the Principal Personal File, without the knowledge and consent of that person.
- 24) If the Advisor, after discussion with the complainant, concludes that, in the Advisor's opinion, the concern raised by the complainant does not fall under this policy, the Advisor shall advise the complainant of this. The Advisor will also refer the complainant to other University policies or procedures that may apply (for example: the Code of Student Conduct or the Guide to Responsible Computing) and may, if the complainant wishes, refer the complainant to the appropriate person or Office with responsibility for that policy or procedure.
- 25) No person involved in the informal procedure shall give evidence or introduce documents from that process during any other subsequent University process under this policy where that evidence or those documents would disclose that any person agreed or refused to participate in the informal procedure, or if informal action occurred, the nature of that action, unless all parties involved in the informal procedure consent to that disclosure.

B. Formal Complaint Procedure

- 26) The Advisor or the Administrative Head will ensure that reasonable attempts at informal resolution have been explored prior to commencing the formal complaint procedure. The parties may also resolve the matter at any point during the formal complaint procedure.
- 27) The Administrative Head is the appropriate Dean or Director/Chair, Associate Vice-President, Vice-President, President, or other administrator normally responsible for initiating disciplinary action. For student respondents, the appropriate Administrative Head shall be the Vice-President (Student Services). Complaints against an Administrative Head shall be investigated by the appropriate administrator at the next higher level.
- 28) When the complainant makes a formal complaint, the Advisor shall inform the respondent's Administrative Head of the complaint if she/he is not already aware of the matter.
- 29) To initiate the formal complaint procedure, the complainant shall provide a written statement of complaint to her/his Administrative Head or to the Advisor, Harassment Prevention/Conflict Management. The statement of complaint must include the names of the parties, a detailed description of the behaviour or comment that forms the basis of the complaint and a request to initiate the formal complaint procedure.

- 30) The Administrative Head and the Advisor shall ensure the other has a copy of the statement of complaint.
- 31) The formal complaint procedure will be initiated following a determination by the Administrative Head, in consultation with the Advisor, that the allegations:
 - i. fall within the Sexual Harassment Policy;
 - ii. could result in a finding of harassment if proven true;
 - iii. are not being heard, or have not already been heard through another University process.
- 32) Within five working days following a determination to proceed, the Administrative Head shall deliver a copy of the statement of complaint and a copy of this policy to the respondent. The respondent shall have ten working days within which to respond in writing to the statement of complaint. The time limits may be extended by the Administrative Head in exceptional circumstances.
- 33) In consultation with the Advisor, the Administrative Head shall appoint an investigator to investigate the matter.
- 34) The purpose of the investigation is to provide information to the Administrative Head to assist in his or her determination of whether there has been a violation of this Policy.
- 35) The Investigator shall investigate the complaint, in a timely manner and will make all reasonable efforts to complete his or her work within 60 working days of being appointed to investigate the complaint. The Investigator may consult with the Advisor regarding procedural issues as required.
- 36) The Investigator shall submit a report to the Administrative Head providing an opinion on the facts of the case and whether there has been a violation of the Sexual Harassment Policy. A copy of the report will also be provided to the Advisor.
- 37) The Administrative Head will determine which portions of the report are appropriate to provide to the complainant and the respondent in accordance with Dalhousie's privacy obligations and any health and safety concerns. This will be provided to the complainant and the respondent who will have five working days to provide written submissions on the report.
- 38) Upon reviewing the report and the submissions of the complainant and respondent, the Administrative Head will make a decision as to whether the respondent has violated this policy.
- 39) The Administrative Head shall advise the complainant and respondent(s) to the complaint in writing of his/her decision regarding whether the respondent violated this Policy.
- 40) Disciplinary proceedings taken against any person under this policy shall be taken in accordance with applicable disciplinary processes for students, faculty or staff, as appropriate.

Part Six

General Provisions

Support and assistance for parties

- 41) The complainant and the respondent are, at all times during any stage of these procedures, entitled to support and assistance from the Advisor, Harassment Prevention/Conflict Management in the Office of Human Rights, Equity and Harassment Prevention (www.hrehp.dal.ca).
- 42) Members of unions and employee associations have all rights to representation that their collective agreements confer.

Confidentiality

- 43) All persons involved in a case are expected to maintain strict confidentiality unless otherwise agreed to by the parties.
- 44) Any communication or information gathered in any case is confidential except to the extent that disclosure is necessary to effectively implement this policy or to undertake any disciplinary or remedial steps arising from a complaint made under this policy.
- 45) For educational purposes, the Office of Human Rights, Equity & Harassment Prevention may discuss specific cases and their resolutions without identifying information.
- 46) Confidentiality may not apply to persons subject to extra-University judicial processes or where disclosure is required by law.

Bad Faith Complaints

- 47) A complaint made in bad faith shall constitute grounds for disciplinary action against the complainant, which shall be commenced in accordance with applicable disciplinary processes. A bad faith complaint is a complaint that is made with a conscious design to mislead or deceive, or with a malicious or fraudulent intent.

Retaliation

- 48) There shall be no retaliation against any person on account of a complaint or an expressed intention to complain under this policy or on account of evidence or assistance given with respect to a complaint or a proposed complaint under this policy. Such retaliation shall be grounds for a complaint under this policy. The University considers retaliation or the threat of retaliation at any stage to be a serious offense because it prevents potential complainants, witnesses and administrators from acting on their concerns. Any person should report threats, acts of retaliation and other safety concerns to the Advisor, Harassment Prevention/Conflict Management and/ or the relevant administrators.

Limitations

- 49) A complaint must be filed within twelve months of the last alleged instance of the action or conduct. An additional period of not more than twelve months may be granted in exceptional circumstances by the Office of Human Rights, Equity and Harassment Prevention.

Other Proceedings

- 50) This policy does not affect the right of the complainant from pursuing a complaint under any applicable legislation (including the Nova Scotia *Human Rights Act*) or from accessing other University policies or procedures, including but not limited to, filing a grievance in accordance with any right to do so pursuant to a provision of an applicable collective agreement.
- 51) If the Administrative Head or the Advisor believes there is an immediate threat to the physical safety of the complainant or any other member of the University community s/he shall contact Security Services.

Interim measures

- 52) The University may, at any time during the processing of a complaint, take necessary steps to ensure the health, safety and security of any member of the University community.

Documents

- 53) Normally, documents created in the course of the procedures under this policy shall be treated as confidential and are retained by the Office of Human Rights, Equity & Harassment Prevention in confidential files in accordance with that Office's policy on confidential records.
- 54) However, reports and other documents used during the formal procedure under this policy may be used by the University for other purposes such as tenure, promotion, appointment, reappointment, discipline, or academic advancement in the case of students, where appropriate and where permitted by the procedures governing such processes. In addition, documents might be required by law to be released to third parties.



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Office of Human Rights, Equity & Harassment Prevention

Room 2, Basement Level, Henry Hicks Academic Administration Building, Dalhousie University,
Halifax, Nova Scotia, Canada

B3H 4R2 Tel: 902.494.1137 | Fax: 902.494.1179 | e-mail: hrehp@dal.ca; www.hrehp.dal.ca

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