

Program on A Respectful Workplace and Learning Environment

Office of Administration:	Executive Director, Human Resources and Organizational Development/ Vice President, Academic and Provost
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1. Overview

- 1.1 Laurentian University is committed to promoting a respectful, diverse and inclusive community and for ensuring that every person in its community is protected from discrimination, harassment and/or bullying and it shall establish mechanisms to give effect to the policy including:
- 1.1.1 Developing and maintaining a program to implement the policy with respect to discrimination, harassment and/or bullying;
 - 1.1.2 Developing and staffing an Office of Human Rights;
 - 1.1.3 Providing information and instruction on the contents of the policy and program with respect to discrimination, harassment and/or bullying; and
 - 1.1.4 Providing ongoing training and institutional support and assistance to carry out responsibilities under the policy.
- 1.2 This program supplements the Policy on a Respectful Workplace and Learning Environment (the “policy”) and outlines the procedures which will be utilized in any and all instances of matters relating to this policy. This document shall be utilized in implementing the policy and shall outline the following:

- 1.2.1 Measures and procedures for persons to report incidents of discrimination, harassment and/or bullying; and
- 1.2.2 Set out the procedures as related to how the University will investigate and deal with incidents and complaints of discrimination, harassment and/or bullying.

2. Purpose

- 2.1 To ensure that employees, students, contractors, volunteers and visitors to the Laurentian University workplace and learning environment are protected from discrimination, harassment and/or bullying.
- 2.2 To ensure that individuals who believe that they are being subjected to acts of discrimination, harassment and/or bullying have mechanisms to access and/or report complaints.
- 2.3 To ensure that individuals are advised of available recourse if they believe that they are subject to discrimination, harassment and/or bullying, or become aware of situations involving violence.

3. Scope

- 3.1 The program on a Respectful Workplace and Learning Environment applies to all employees, students, contractors, volunteers and visitors to the Laurentian University workplace and learning environment.

4. Definitions

- 4.1 The definitions as outlined in the Policy on a Respectful Workplace and Learning Environment (the “policy”) are to be utilized in this program document.

5. Office of Human Rights

5.1 The Office of Human Rights is responsible for:

- 5.1.1 Communication of the policy;
- 5.1.2 Development and delivery of educational programs aimed at preventing discrimination, harassment and/or bullying as well as informing the Laurentian community on the policy;
- 5.1.3 Administration of the policy and related procedures;
- 5.1.4 Interpretation of the policy;
- 5.1.5 Facilitating informal and formal resolution processes;

- 5.1.6 Assessing the merits of a complaint and determining appropriate complaint investigation and resolution options;
 - 5.1.7 Undertaking neutral, independent informal investigations; and
 - 5.1.8 Identifying trends and patterns based on complaints/issues brought forward through this office.
- 5.2 Each year a report will be prepared by the Office of Human Rights and made available to the Laurentian community concerning the number, type and disposition of cases and on educational and other activities related to the policy.
- 5.3 At the beginning of each academic year, the Office of Human Rights will seek nominations for a representative from each of the recognized Student Associations to act as liaison with the Office of Human Rights. This representative will be nominated by the executive members of each of the recognized Student Associations and will be provided with ongoing training and support from the Office of Human Rights in an effort to promote student awareness of the policy and related program.
- 5.4 Laurentian University shall maintain a position of Human Rights Advisor. The Human Rights Advisor must have sound knowledge of the applicable laws and procedures as they relate to discrimination, harassment and/or bullying.
- 5.5 The President and Vice-Chancellor shall appoint a Human Rights Advisor in accordance with the University's established hiring procedures.
- 5.6 The role of the Human Rights Advisor is to:
- 5.6.1 Offer support, guidance and advice to the Complainant as to whether the alleged behaviour falls within the policy;
 - 5.6.2 Outline and advise the Complainant on options for resolving the problem, including personal resolution, informal resolution using Alternative Dispute Resolution measures ("ADR"), or pursuing more formal resolution;
 - 5.6.3 Assist the parties to informally resolve matters, as required;
 - 5.6.4 Appoint an investigator as required, and coordinate the investigation process in a consistent, timely and fair manner;
 - 5.6.5 Assist and advise those with supervisory responsibilities in the resolution of human rights concerns;
 - 5.6.6 Make referrals to other University departments;
 - 5.6.7 Bring to the attention of those in positions of responsibility any University policy, procedures or practices that appear to discriminate against individuals or groups based on prohibited grounds as defined in the *Human Rights Code of Ontario, 1990* (the "Code"); and
 - 5.6.8 Communicate emerging trends and patterns to appropriate administrators within an affected unit.

- 5.6.9 Provide feedback to assist in proactively addressing issues and promoting a respectful, diverse and inclusive community.

6. Complaints

- 6.1 General: If you believe that you are being discriminated against, harassed and/or bullied, options are available that offer employees and students an opportunity to choose a course of action that meets your needs. Resolution options fall into three (3) broad categories:
 - 6.1.1 Personal Resolution (Self-Managed or Assisted): This involves telling the person to stop and telling them that such behaviour is unacceptable, inappropriate or unwelcome. Do so as soon as you are subjected to any unwelcome comments or conduct. Although this may be difficult to do, telling the person you don't like their actions is often enough to stop the behaviour. In a situation where you may be too uncomfortable to make an approach on your own, you may seek third party assistance for support and advice (see 6.3 below).
 - 6.1.2 Alternate Resolution Options: This refers generally to options other than a complaint process and can include mediation, negotiation, facilitation, conflict resolution conferences and other dispute resolution techniques (see section 8).
 - 6.1.3 Formal Resolution Process: This refers to a complaint process where a fact finding investigation is carried out and a determination is made as to whether the policy has been breached.
- 6.2 If you believe that someone who is not a member of the Laurentian University Community (e.g. volunteer, contractor or visitor) has discriminated, harassed and/or bullied you, it is your obligation to report the incident(s) to the Human Rights Advisor. Although Laurentian University has limited control over third parties, it will do its best to address the issue and prevent further problems from arising.
- 6.3 If you believe that you have experienced discrimination harassment and/or bullying you should keep a personal record of the details or incidents. This will be very helpful when you are seeking a resolution process as it will clarify both for you and the Human Rights Advisor what happened. The information to be kept includes the following:
 - 6.3.1 Date and Time;
 - 6.3.2 Place;
 - 6.3.3 Name and status of other person involved;
 - 6.3.4 A specific account of what happened – be as detailed as possible;
 - 6.3.5 The effect of the incident;
 - 6.3.6 Name of witnesses; and
 - 6.3.7 Action taken including any person to whom the incident has been reported and any attempts at personal resolution.

6.4 Seeking Assistance:

At the local level:

- 6.4.1 When direct personal action has not been successful, it can be very effective for employees or students to seek assistance at the “local” level, e.g. from professors, instructors, coaches, managers or supervisors or persons in authority in their unit, such as their Dean, Director, Associate Vice-President or Vice-President, or from their Unions or Associations.
- 6.4.2 Prior to taking action or rendering assistance in the resolution of situations that may involve harassment or discrimination, the individual seeking assistance and/or the person being asked to assist are encouraged to contact the Human Rights Advisor to discuss the proposed course of action.

From the Human Rights Advisor:

- 6.4.3 The Human Rights Advisor is available to provide information about the policy and procedures to any member of the University, including individuals who believe they may have experienced or witnessed discrimination or harassment and those who may have been accused of it, as well as others who may be involved or impacted.
- 6.4.4 The Human Rights Advisor is an impartial, neutral source of information about harassment and discrimination and the operation and interpretation of the policy and program. The Human Rights Advisor is not an advocate for either party.
- 6.4.5 One of the Human Rights Advisor’s key roles, and the initial purpose of any consultation, is to provide the individual with the information he or she needs about the policy and program in order to make informed choices.
 - 6.4.5.1 Consultations will typically include a discussion of multiple resolution options available within the broad categories of personal (self-managed) resolution, alternate resolution options and the formal complaint process, including their respective advantages and disadvantages and/or, as required, interpretations and explanation of the policy and these procedures.
 - 6.4.5.2 The Human Rights Advisor will advise potential Complainants and Respondents, verbally, in writing and/or by direction of these procedures, of their right to procedural fairness, and of the availability of counselling or other additional or alternative University services and resources, as appropriate and/or applicable.
 - 6.4.5.3 At the conclusion of the consultation, if any, the Complainant alleging discrimination, harassment and/or bullying has the option to:
 - 6.4.5.3.1 Submit a written, informal resolution process form and provide details of the cause for concern, or,

- 6.4.5.3.2 Proceed on his or her own with a self-managed alternate resolution option; or
- 6.4.5.3.3 Take no further action.

6.5 The right to file a complaint and request an investigation or to submit a statement and a request for action is subject to the following:

- 6.5.1 An investigation is not a matter of right. In order for a matter to proceed to investigation, intake and assessment criteria must be met (see paragraph 6.6 Intake and Assessment Criteria);
- 6.5.2 The burden of proof is on the Complainant to establish a *prima facie* case of harassment, discrimination or bullying i.e. by alleging facts that tend to establish the essential elements of the definition;
- 6.5.3 The purpose and scope of an investigation is to determine whether there is evidence to support the specific allegations;
- 6.5.4 If the criteria is not met, the matter will not proceed to investigation; and
- 6.5.5 A request for action (for assistance with an Alternate Dispute Resolution Option) is not a matter of right and does not compel action on the part of the Human Rights Advisor. If a request for action is declined, the Human Rights Advisor will provide an explanation and a reasonable alternative.

6.6 Intake and Assessment Criteria:

The decision on whether or not to proceed with a resolution process shall be made by the Human Rights Advisor. On receiving a complaint, the Human Rights Advisor will assess whether all four (4) of the following criteria have been met:

- 6.6.1 Whether the matter is within the jurisdiction of the University i.e. involving employees and/or students of the University;
- 6.6.2 Whether the allegations fall within the scope of this policy and program, i.e. alleging discrimination, harassment or bullying;
- 6.6.3 Whether the complaint is timely i.e. the most recent alleged incident occurred within the past 120 working days; and
- 6.6.4 Whether the complaint establishes a *prima facie* case of discrimination or harassment.

6.7 Where the complaint lacks sufficient detail or does not address important evidentiary points, but does tend to establish a *prima facie* case, the Human Rights Advisor may proceed with an investigative interview with the Complainant to supplement the information in the complaint.

6.8 If the complaint does not involve an employee or student, and only seeks redress from the University e.g. alleging that the University itself has failed to meet its obligation to provide a safe and healthy environment free of harassment, the matter shall be referred to the Executive Director, Human Resources and Organizational Development, who may direct an

investigation and order any interim measures or relief that he or she deems fit. The Complainant shall be so notified, in writing, with reasons.

- 6.9 If the foregoing intake and assessment criteria are not met, the Complainant will be advised of the determination not to proceed. Recognizing that this action does not resolve the Complainant's program, the Human Rights Advisor may be able to recommend other problem solving options or refer the Complainant to other University services or resources.
- 6.10 Upon request, the Human Rights Advisor will provide either party with general information and guidelines related to the form and content of a complaint or response to a complaint. If further assistance is required to prepare a complaint or a response, either party may seek such assistance from a Union or Association representative, a trusted friend or colleague or anyone else he or she deems appropriate.
- 6.11 After a complaint has been accepted by the Office of Human Rights, the Human Rights Advisor will determine if any immediate action or interim measures are required to protect the health, safety and security of the Complainant, the Respondent, the University, its community or any of its members. This may be done in consultation with the Executive Director, Human Resources and Organizational Development in circumstances which warrant same.
- 6.12 These measures may include but are not limited to:
 - 6.12.1 Limiting access to facilities and/or areas within a department;
 - 6.12.2 Making arrangements for alternative grading;
 - 6.12.3 Change in reporting relationship or worksite; or
 - 6.12.4 Discontinuing contact between the Complainant and the Respondent during the period of the proceedings under this policy.
- 6.13 Interim measures, if required, are to be implemented by the appropriate University personnel. Both parties shall be notified of any interim measures to be implemented. Note that any interim measures are not intended as discipline or a transfer within the meaning of any collective agreement or policy. Where any interim action is taken in the course of the investigation, those named will be presumed innocent until a final determination to the contrary is reached under the terms of this policy and program.
- 6.14 Nothing in the policy or program precludes a member of the Executive Team from invoking an Alternative Dispute Resolution process or an investigation in accordance with these procedures or independent of the Office of Human Rights in circumstances warranting same and/or in a situation where the University reasonably believes that discrimination, harassment and/or bullying may have occurred, even though no person has complained about a violation of the policy or program. This will be done in consultation with the Human Rights Advisor.

- 6.15 All complaints must be initiated within 120 working days of the most recent incident occurring. In extraordinary circumstances and at the sole discretion of the Human Rights Advisor, a complaint filed beyond 120 working days limitation may be considered.

7. Rights of the Complainant and the Respondent

7.1 Rights of the Complainant:

If you believe that you are being harassed or discriminated against, you have the right to:

- 7.1.1 Meet with the Human Rights Advisor to raise or discuss matters under the policy and program.
- 7.1.2 File an informal written complaint to be dealt with through the informal resolution process by way of Alternative Dispute Resolution.
- 7.1.3 File a formal complaint to be dealt with through the formal resolution process subject to paragraphs 6.5 and 6.6.
- 7.1.4 Have the matter dealt with promptly, without fear of embarrassment or reprisal.
- 7.1.5 Have a person of your choice, including a representative from your Union or Association or a student advocate, accompany you during the process.
- 7.1.6 Be informed about the progress of the matter.
- 7.1.7 Be treated fairly.
- 7.1.8 Be informed of the type of corrective measures that will result from the matter.

7.2 Rights of the Respondent:

If you are the individual against whom allegations have been made under this policy, you have the right to:

- 7.2.1 Meet with the Human Rights Advisor.
- 7.2.2 Be informed of the matter and the identity of the Complainant and be given a written statement of the official allegations, and the opportunity to respond to them.
- 7.2.3 Have a person of your choice, including a representative from your Union or Association or a student advocate, accompany you during the process.
- 7.2.4 Be informed about the progress of the matter.
- 7.2.5 Be treated fairly.
- 7.2.6 Be informed of the type of corrective measures that will result from substantiated allegations.

7.3 Support Person:

- 7.3.1 The role of the support person is to:

- 7.3.1.1 Provide moral support, keeping in mind that the Complainant and the Respondent are responsible for expressing their own thoughts and feelings, and for full disclosure of information related to the allegations;
 - 7.3.1.2 Support the investigator's objective of conducting a full, fair and impartial investigation;
- 7.3.2 The support person cannot be a witness in the investigation.
- 7.3.3 The investigator may terminate or postpone the interview if the behaviour of the support person is deemed inappropriate.
- 7.3.4 Any costs associated with the attendance of a support person shall be borne by the Complainant or the Respondent, as the case may be.

8. Informal Resolution Process by Way of Alternative Dispute Resolution (ADR)

- 8.1 Alternate resolution refers, generally, to options other than a complaint process-options which take a problem-solving approach, chosen and controlled by the individuals involved, to achieve a satisfactory resolution. The alternative resolution process does not, in itself, create a formal record, nor will any corrective or disciplinary action be taken or consequences imposed, even if the other party declines to participate or the process fails. The informal process will be initiated by contacting the Human Rights Advisor to discuss the issue raised in the informal complaint and then submitting a written summary/details of any alleged incidents. Following this, the Respondent will be contacted by the Human Rights Advisor within ten (10) working days to discuss the issues raised in the informal complaint and to set up an Alternative Dispute Resolution process with the view to resolving the concerns or issues.
- 8.2 The informal resolution process will attempt to be conciliatory rather than adversarial. This process involved discussing the issues and attempting to develop appropriate solutions. It is best used in the early stages where people are willing to come to an agreement. Such an agreement may take the form of a clarification of a misunderstanding, an apology, a conflict resolution conference between the parties or an agreed plan of action to avoid future incidents.
- 8.3 In the first instance, the Office of Human Rights will explore the use of Alternative Dispute Resolution with the parties to resolve the matter. Where the parties agree, the Office of Human Rights will work together with the parties to resolve the matter.
- 8.4 ADR is a process that parties can use to reach their own agreement and can include mediation, negotiation, facilitation, conflict resolution conferences, and other dispute resolution techniques. The Office of Human Rights shall normally conduct ADR of matters falling under the policy. However, Laurentian University, through its Executive Team, reserves its right to initiate ADR procedures independent of the Office of Human Rights in circumstances warranting same.

- 8.5 Any information provided during ADR is without prejudice and will not be introduced automatically as evidence in any subsequent investigation or process unless the Human Rights Advisor determines that such information may be relevant to the investigation and shall not prejudice either party.
- 8.6 An example of one type of ADR is mediation, a collaborative process to produce agreement or resolution. If someone has accused you of discrimination, harassment and/or bullying, and you have not been able to resolve the situation with that person informally, mediation is a possible next step. Mediation may make a formal complaint unnecessary. You can ask for mediation or you may agree, if it is suggested to you. However, you do not have to agree if you think that you are being pressured into something that does not feel right to you.
- 8.7 If you want to work toward a mediated settlement, the Human Rights Advisor will appoint a qualified mediator, from within the organization or from outside it, who is acceptable to both parties.
- 8.8 At the conclusion of mediation if a mutually acceptable resolution is agreed on by the parties, the mediator shall prepare a Resolution Agreement and have it signed by both parties who will each be given a copy. The Office of Human Rights will work with the parties to implement the terms of the agreement.
- 8.9 Failing resolution of the matter through ADR the Complainant shall have the right to either continue to explore other means of informal resolution or submit a formal complaint.
- 8.10 Any information disclosed in the course of the mediation will not be introduced automatically as evidence in an investigation should there be a formal complaint.
- 8.11 At the conclusion of any ADR process, and notwithstanding the outcome, each party shall be informed in writing of the result.
- 8.12 The Office of Human Rights will endeavour to complete an informal resolution process within 60 working days of the Office of Human Rights making contact with the Respondent to discuss the matter.

9. Formal Resolution Process

- 9.1 If the matter cannot be resolved informally or if it is too serious to be dealt with on an informal basis or if informal resolution is deemed not appropriate, a formal written complaint may be filed with the Office of Human Rights to initiate the formal resolution process, subject to paragraph 6.6.

- 9.2 No investigation shall be undertaken unless the formal written complaint establishes a *prima facie* case of discrimination or harassment.
- 9.3 If the Office of Human Rights decides not to proceed, the Complainant shall be informed in writing. The Complainant will also be informed about his or her right to appeal this decision in accordance with the Appeal Procedures described below.
- 9.4 If the Office of Human Rights decides to proceed, the Respondent shall be notified within ten (10) working days of receipt of the formal complaint.
- 9.5 Both the Complainant and the Respondent will be informed of their rights under the policy and program.

10. Investigation of Formal Complaints

General

10.1 Notification

Once the Human Rights Advisor has accepted the complaint under the Formal Resolution Process, based on the criteria noted above, he or she shall:

- 10.1.1 Notify the Respondent in writing that a complaint has been lodged. The Respondent will be provided with a copy or summary of the allegations, identifying the Complainant. The Respondent will also be provided with a copy of the policy and the program.
- 10.1.2 Inform the relevant Dean(s), Associate Vice-President(s), Director(s) or Manager(s) for each party that a complaint has been filed and an investigation initiated. Where appropriate, the Human Rights Advisor will also recommend and/or discuss the need for interim measures.
- 10.1.3 Inform the relevant Union or Association for each party that a complaint has been filed and an investigation initiated.

11. Response

- 11.1 The Respondent shall have the right (but is not obliged) to respond in writing, within ten (10) working days of being notified. The response, if any, should either acknowledge or deny the validity of the allegations in whole or in part, provide additional information, and or propose a resolution of the complaint. A request for an extension of the response period will not be unreasonably withheld.

- 11.2 The Respondent is entitled to the same level of assistance in the process as is available to the Complainant. If he or she has not already done so, the Respondent has the right to meet with the Human Rights Advisor to obtain information, guidance and assistance and discuss options. The Human Rights Advisor will not directly assist the Respondent to prepare his or her response; a Respondent may seek such assistance from a Union or Association representative, a trusted friend or colleague or anyone else he or she deems appropriate.
- 11.3 The Complainant shall be provided with a copy or summary of the response and has the right (but is not obliged) to respond to the investigator, in writing, within five (5) working days. The Complainant may, in his or her response, accept the Respondent's proposed resolution, if there is one; propose or request an alternate resolution, withdraw some or all of the allegations, or rebut the Respondent's contradictory evidence or affirmative defence.
- 11.4 The Respondent is provided with a summary of the Complainant's response, which ends this stage of the process.

12. Investigation

- 12.1 Once the complaint is accepted under the formal resolution process, the Human Rights Advisor, subject to the approval of the Executive Director of Human Resources and Organizational Development, will appoint an external investigator, who is impartial and unbiased and who is trained in harassment investigation techniques, to conduct a fair, thorough and complete investigation of the complaint as expeditiously as possible.
- 12.2 Any party to a formal complaint may challenge the appointment of the investigator on the ground that the individual has a potential conflict of interest in the outcome of the matter or that there is a reasonable apprehension of bias on her/his part. A party raising the challenge will submit it in writing to the Office of Human Rights, who will make a decision with regard to the potential for conflict of interest within five (5) working days of having received the challenge. That decision will be final. Details of the challenge and the decision shall be noted in writing in the written report of the investigator.
- 12.3 Once the investigator has been appointed, the Office of Human Rights will make all relevant documentation collected about the complaint available to him or her. The investigator will then devise a written investigation plan which will outline the process to interview the Complainant, the Respondent, and all witnesses whom the investigator determines to have any information relevant to the complaint. In addition, the investigator will list those persons who, although named as witnesses, in their view had no information bearing on the complaint or were not available for interview. If it appears to the investigator that other persons not named by the parties may have information related to the complaint, every effort will be made to interview those potential witnesses. It may also be necessary to re-interview the parties before issuing the report.

- 12.4 The investigator shall collect, review, analyze and assess the facts with respect to the merits or veracity of the allegation(s). Facts are derived from evidence provided by the Complainant, the Respondent, as well as witnesses and other evidence, if any, and may include inferences drawn by the investigator from the evidence gathered.
- 12.5 A typical investigation involves, but is not necessarily limited to, the information gathered in the complaint/response process, supplemented by interviews, if necessary, with the Complainant, Respondent and witnesses (in that order) and the review of any applicable documentary, physical, corroborative or contemporaneous or other evidence. An interview with the Respondent will be requested if their prepared response statement does not address important evidentiary points, is non-responsive, or lacks sufficient detail.
- 12.6 The investigator is solely responsible for determining the scope of the investigation, including which witnesses, if any, are to be interviewed. Witnesses may include anyone who can provide information, records or details regarding an allegation or the circumstances surrounding a complaint. When material facts are not in dispute, interviewing witnesses may be unnecessary.
- 12.7 During the investigation, every attempt will be made to interview the Complainant first. Usually the Respondent will be interviewed second because she/he has the right to reply fully to the allegations.
- 12.8 In all circumstances, interviews with witnesses will occur after the Complainant and the Respondent have been given an opportunity to be interviewed.
- 12.9 All employees and/or students are expected to cooperate in the investigation of complaints and efforts to resolve them.

13. Interviews

- 13.1 During the investigation, every attempt will be made to interview the Complainant first. Usually the Respondent will be interviewed second because she/he has the right to reply fully to the allegations made against her/him and to name her/his witnesses.
- 13.2 In all circumstances, interviews with witnesses will occur after the Complainant and the Respondent have been given an opportunity to be interviewed.
- 13.3 There is an obligation on members of the University community to cooperate in the investigation of a complaint.

- 13.4 If a Respondent refuses to cooperate, in most cases it will be both possible and appropriate to proceed with an investigation without a statement (response) or interview of the Respondent.

14. Postponement

- 14.1 The investigator may decide to suspend any investigation in the event that the situation is appropriate for, and the parties mutually agree to attempt, ADR through the Office of Human Rights. Should ADR not be successful, the investigator will restart the investigation.
- 14.2 The Human Rights Advisor may decide to postpone, suspend or cancel any investigation if its continuance would duplicate or prejudice another proceeding or bring the administration of this policy and procedures into disrepute. In coming to a decision, the Human Rights Advisor will consider such factors as:
- 14.2.1 The University's responsibility to provide an environment free from harassment and discrimination.
 - 14.2.2 The recognition that grievances may be filed simultaneously with complaints in order to comply with negotiated timelines (should a Complainant under these circumstances elect to grieve a human rights matter under her/his collective agreement or other policy established by the University rather than through this policy and procedures, the University reserves the right to continue with its own investigation to address the matter in compliance with its obligations under the Code.
 - 14.2.3 Other legal procedures that may be initiated to protect statutory rights.
 - 14.2.4 The wishes of the parties.

15. Balance of Probabilities

- 15.1 The investigator will decide whether, on a balance of probabilities, there is enough evidence to conclude that discrimination, harassment and/or bullying occurred. The investigator will also identify all possibilities for resolving the situation, and will recommend one or more courses of action as outlined under the heading "Investigation Results and Reports".

16. No Reprisal or Retaliation

- 16.1 There shall be no reprisal or retaliation nor any threat of reprisal or retaliation against anyone pursuing their rights under this policy and program. Any such alleged reprisal or retaliation or threat thereof shall be equivalent grounds for laying a complaint under this policy and program. Retaliations can also constitute infractions under applicable legislation.
- 16.2 Discrimination, harassment and/or bullying in this policy are serious matters. This policy and program prohibits reprisals or retaliation against persons who have made good faith

complaints or provided information regarding a complaint, incident or report of an incident of discrimination, harassment and/or bullying. Persons who engage in reprisals and retaliation and/or threats of reprisal or retaliation may be disciplined up to and including dismissal from employment.

17. Complaints Made in Bad Faith

- 17.1 A complaint is deemed to be made in bad faith if it is deliberately and maliciously invented in order to damage the reputation of the Respondent. This is not to be confused with a complaint made in good faith that is found to be without merit. A complaint made in bad faith is a violation of this policy and the Complainant may be subject to disciplinary action by one of the following individuals, depending on who the individual filing the complaint is:
- 17.1.1 The Chair of the Board of Governors if the individual is the President and Vice Chancellor of the University; or
 - 17.1.2 The President and Vice-Chancellor if the individual is a member of the Executive Team; or
 - 17.1.3 The Vice-President, Administration if the individual is an administrator; or
 - 17.1.4 The Vice-President, Academic and Provost if the individual is a member of faculty; or
 - 17.1.5 The Executive Director of Human Resources and Organizational Development if the individual is an employee, other than a faculty member; or
 - 17.1.6 The Executive Director, Student Life and Enrolment Management if the individual is a student.

18. Time Frame

- 18.1 The investigation shall be completed within forty (40) working days from the time the investigator has been appointed and/or from the time a decision is rendered as related to a challenge to the appointment of one or more investigators on the grounds that the individual has a potential conflict of interest in the outcome of the matter or that there is a reasonable apprehension of bias (see paragraph 12.2).
- 18.2 Time that elapses during the suspension of an investigation will not be included when calculating this time limitation (see section 14 Postponement).
- 18.3 In extenuating circumstances, where the investigation goes beyond this timeframe, the parties and their Unions or Associations will be advised and will be provided with reasons for the delay.

19. Investigation Results and Reports

- 19.1 The investigator shall submit a written report to the Human Rights Advisor summarizing the results of the investigation and including a determination as to whether this policy has been breached along with recommendations as to remedies and/or corrective or disciplinary action.
- 19.2 The report must not only be fair and impartial, but also thorough, complete and useful and shall include a clear statement based, on a balance of probabilities stating one of the following that:
 - 19.2.1 allegations in the complaint are substantiated; or
 - 19.2.2 allegations in the complaint are unsubstantiated; or
 - 19.2.3 there is insufficient evidence on which to base a finding; or
 - 19.2.4 case warrants corrective/disciplinary action against the Complainant on the grounds of a frivolous, vexatious, malicious or bad faith complaint.
- 19.3 The conclusion of the investigation is marked by the delivery of the report by the investigator.
- 19.4 Within twenty (20) working days of the conclusion of the investigation, the Human Rights Advisor, after reviewing the report, will submit same to one of the following decision makers, depending against whom the corrective/disciplinary action is to be applied to the:
 - 19.4.1 Executive Director of Human Resources and Organizational Development if it is an employee other than a faculty member; or
 - 19.4.2 Vice-President, Academic and Provost, if it is a member of faculty; or
 - 19.4.3 Executive Director, Student Life and Enrolment Management if it is a student; or
 - 19.4.4 Vice-President, Administration if it is an administrator; or
 - 19.4.5 President and Vice-Chancellor if it is a Senior Administrator, other than the President and Vice-Chancellor; or
 - 19.4.6 Chair of the Board of Governors if it is the President and Vice-Chancellor of the University.
- 19.5 Within the twenty (20) working days as noted in 19.4, the decision maker who receives the report will then decide, in accordance with this policy and program and any applicable collective agreements:
 - 19.5.1 What remedies, if any, will be provided to the Complainant.
 - 19.5.2 The corrective/disciplinary action, if any, to be imposed on the Respondent.
 - 19.5.3 The corrective/disciplinary action to be imposed on the Complainant in the case of a frivolous, vexatious, malicious, or bad faith complaint.
 - 19.5.4 Whether the employee or student in question can continue in their current workplace or learning environment.

- 19.6 In cases where a conflict of interest or a reasonable apprehension of bias is declared by either one of the parties or by the decision maker, another individual on the above list will be called upon to make the decision.

The decision maker will communicate its decision in writing to the Human Rights Advisor. This decision shall be included in the Notice of Decision.

NOTICE OF DECISION

20. Decision

- 20.1 Upon receipt of the written decision from the decision maker, the Human Rights Advisor will then prepare a confidential Notice of Decision which shall summarize the investigation report and set out the decision including any remedies and/or corrective or disciplinary action that has been ordered. The confidential Notice of Decision shall include a summary of the evidence as aggregate information that does not identify individuals will be included.
- 20.2 The Notice of Decision will be marked *Confidential* and will be subject to the confidentiality provisions set out below at section 30.
- 20.3 Where the decision maker is contemplating disciplinary action as a result of the investigation, a request for a meeting will be sent to the Respondent and his/her Union or Association representative, providing them with at least five (5) working days' notice. A copy of the Notice of Decision will be included with the request for the meeting. This meeting shall take place within twenty (20) working days of the conclusion of the investigation.
- 20.4 Following its meeting with the Respondent, the decision maker will consider the representation of the Respondent and his/her Union or Association prior to making a final decision in regards to discipline.
- 20.5 Within five (5) working days of the meeting noted above, the decision maker shall notify the Respondent and Union or Association in writing as to whether discipline shall be imposed, the nature of the disciplinary action, the reasons for it and the events being relied upon to support it.
- 20.6 The Human Rights Advisor will review the confidential Notice of Decision with the Complainant and his/her Union or Association representative and will provide each with a copy of same.

- 20.7 Within ten (10) working days or sooner from the date where disciplinary action has been communicated or from the time of the meeting with the Complainant and the Respondent, the decision maker will institute corrective action, remedies and any changes in work.

REMEDIES/CORRECTIVE MEASURES

21. Remedies for the Complainant

- 21.1 Laurentian University will make every reasonable effort to remedy the effects of the discrimination, harassment and/or bullying. The Complainant may receive one or more remedies depending on the severity of the discrimination, harassment and/or bullying and what he or she lost because of it. These remedies include but are not limited to a:

- 21.1.1 verbal or written apology from the Respondent;
- 21.1.2 compensation for lost wages;
- 21.1.3 job or promotion that was denied;
- 21.1.4 compensation for lost tuition;
- 21.1.5 transfer of the student with the student's consent from one course or section to another;
- 21.1.6 reassignment of graduate supervisors;
- 21.1.7 commitment that he or she will not be transferred, or will have a transfer reversed, unless he or she chooses to move; and/or
- 21.1.8 change in work or study conditions or arrangements.

- 21.2 No record of the complaint, investigation or decision will go in the Complainant's personnel or academic file, if the complaint was made in good faith.

22. Corrective/Disciplinary Action

- 22.1 An individual who has discriminated against, harassed and/or bullied another person or an individual who has filed a frivolous, vexatious, malicious or bad faith complaint, shall be subject to discipline. In addition, the individual shall be required to take any remedial steps necessary in the opinion of the University to remedy the situation to ensure a respectful workplace and learning environment.

- 22.2 If the investigation does not find evidence to support the complaint, there will be no documentation concerning the complaint placed in the file of the Respondent.

- 22.3 When the investigation reveals that discrimination, harassment and/or bullying occurred, the incident and the corrective/disciplinary action which is imposed on the Respondent will be recorded in the Respondent's official file. If the investigation reveals that the complaint was

frivolous, vexatious, malicious, or made in bad faith, the incident and the corrective/disciplinary action which is imposed on the Complainant will be recorded in the Complainant's official file.

23. Settlement Without Disciplinary Action

- 23.1 In the case of a settlement without disciplinary action, the Office of Human Rights will work with the parties to effect the terms of that settlement.

24. No Breach

- 24.1 Where the finding is that there has been no breach of the policy, the matter shall be considered resolved and no information shall be placed in the official personnel or student file of the Respondent.

APPEAL PROCEDURES

25. Faculty and Staff Appeals

- 25.1 Any Complainant or Respondent who is a bargaining unit member adversely affected by the decision may pursue his or her rights, if any, under the applicable collective bargaining agreement.

26. Non-Union Group Employee Appeals

- 26.1 Any Complainant or Respondent who is a non-union group employee adversely affected by the decision may appeal the decision directly to the President and Vice-Chancellor within ten (10) working days of receipt of the Notice of Decision by requesting an appeal in writing.
- 26.2 The grounds of the available appeal are that there has been a misinterpretation, a violation, an improper application, or faulty administration of this policy, or, in the case of Respondent appeals only, that the sanctions imposed are excessive.
- 26.3 Within ten (10) working days of receiving the written appeal, the President and Vice-Chancellor will render a final, written decision.

27. Student Appeals

- 27.1 Any Complainant or Respondent who is a student adversely affected by the decision may appeal the decision directly to the President and Vice-Chancellor within ten (10) working days.
- 27.2 The grounds of the available appeal are that there has been a misinterpretation, a violation, an improper application, or faulty administration of this policy, or, in the case of Respondent appeals only, that the sanctions imposed are excessive.
- 27.3 In the case of an appeal against sanctions, the President and Vice-Chancellor will consult with the Executive Director, Student Life and Enrolment Management before reaching a final decision.
- 27.4 Within ten (10) working days of receiving the written appeal, the President and Vice-Chancellor will render a final, written decision.

28. Files of Office of Human Rights

- 28.1 After formal resolution of the complaint, the Office of Human Rights will retain the complaint and all supporting documentation, reports and notices, as a confidential document except as provided in this policy.
- 28.2 These files will be retained for five (5) years from the date the complaint was filed pursuant to this policy, after which time they will be disposed of in a manner that protects the security and confidentiality of the information.

ADDITIONAL INFORMATION

29. Additional Recourse Available to the Complainant

- 29.1 This policy does not in any way prevent an individual from going to the Human Rights Tribunal.
- 29.2 Nothing in this policy denies or limits access to other redress available under the law and/or the collective agreement.

30. Confidentiality

- 30.1 Confidentiality is required in all procedures under this policy. Because of the particular sensitivity of discrimination, harassment and/or bullying complaints and their consequences, confidentiality is of the utmost importance and will be maintained at all times, unless the safety of members of our community are at risk or subject to the disclosure requirements under this policy and/or the *Freedom of Information and Protection of Privacy Act, 1990* or any other applicable legislation. Maintaining confidentiality benefits everyone involved in the

complaint process. Those making complaints shall not discuss the matter other than with the appropriate parties. Those involved in dealing with the complaints will disclose information only where absolutely necessary and the Complainant will be consulted before any disclosure of information is made. The importance of confidentiality will be stressed to all those involved in an investigation and everyone will be strictly required not to discuss the complaint with colleagues.

- 30.2 Confidentiality does not mean anonymity. In the instance of acting on a complaint, a fundamental principle is that the Respondent must be informed of who has made the allegations, and the specific nature of the allegations, at the earliest possible point in the process.
- 30.3 In limited situations it may be necessary to convey appropriate information to the administration in order for Laurentian University to fulfill its obligation as employer and policy enforcer. Additionally, and as prescribed in the Program on a Respectful Workplace and Learning Environment, the fact that a formal written complaint has been made by a Union member or against a Union member and the name of the Union member will be disclosed to the Complainant's and/or Respondent's Union.

31. Notice of Collection of Personal Information Under this Policy

- 31.1 Any personal information about an individual collected in respect of this policy, is pursuant to *The Laurentian University of Sudbury Act, 1960*. Such information will only be used for the purposes and functions outlined in the policy. If you have any questions about the collection, use, and disclosure of this information please contact the senior administrator responsible for the policy.

32. Related Legislation, Policies, Procedures and Other Documents

- 32.1 *Accessibility for Ontarians with Disabilities Act, 2005*
- 32.2 *Freedom of Information and Protection of Privacy Act, 1990*
- 32.3 *Occupational Health and Safety Act, 1990*
- 32.4 *Ontario Human Rights Code, 1990* (the Code)
- 32.5 *Labour Relations Act, 1995*
- 32.6 *Employment Standards Act, 2000*
- 32.7 Collective Agreements

- 32.8 Community Standards Manual for Laurentian University Residence Complex (University College Residence, Single Student Residence, Mature Student Residence, West Residence)
- 32.9 Employment Equity Policy
- 32.10 Policy on Workplace Violence Prevention
- 32.11 Policy on a Respectful Workplace and Learning Environment
- 32.12 Program on Workplace Violence Prevention
- 32.13 Laurentian University's Code of Student Conduct (non-academic)
- 32.14 Statement of Student's Rights and Responsibilities
- 32.15 Student Athlete Handbook and Code of Conduct

PROGRAM SUPPLEMENTING THE POLICY ON A RESPECTFUL WORKPLACE AND LEARNING ENVIRONMENT

APPENDIX A – Examples and Relationships between members of the Laurentian University Community

1. Examples of Human Rights Discrimination

1.1 Examples of discrimination include, but are not limited to:

- refusing to hire or promote, or dismissing a woman because she is or may become pregnant;
- refusing a student with a disability, any accommodations required by Accessibility Services and that are required for an exam or assignment;
- preventing an individual from attending a course, or refusing him or her employment or refusing him or her any other advantage based on a prohibited ground such as sex, race, disability or sexual orientation;
- indirect discrimination: for example a receptionist is instructed not to accept a job application from applicants who are from a particular racial or ethnic background.

2. Examples of Legally Justified Reasons

2.1 The following are examples of legally justified reasons for authorizing behaviours that would otherwise be prohibited:

- A right under the Ontario *Human Rights Code, 1990* (the Code) is not infringed by implementing a special program designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity or that is likely to contribute to the elimination of the infringement of rights under the Code (article 14(1) of the Code).
- Dismissing an employee for the sole reason that the person is incapable of performing or fulfilling the essential duties or requirements of the position because of a disability where no reasonable accommodation* is possible does not infringe his or her rights (article 17(1) of the Code). (*Note: Article 17(2) of the Code states that a person will not be found “incapable unless the needs of this person cannot be accommodated without undue hardship on the person responsible for accommodating those needs, considering the cost, outside sources of funding, if any, and health and safety requirements”).
- The right to equal treatment under the Code is not infringed by restricting services and facilities because of sex where the use of the services or facilities is restricted to persons of the same sex on the ground of public decency (Article 20(1) of the Code).

3. Examples of Human Rights Harassment

3.1 Examples of Human Rights harassment under the Code include but are not limited to:

- unwelcome remarks, slurs, jokes, taunts, or suggestions about a person's race, national or ethnic origin, colour, religion, age, sex, marital status, family status, physical or mental disability, sexual orientation, or pardoned conviction;
- unwelcome sexual remarks, invitations, or requests (including persistent unwanted contact after the end of a relationship);
- displays of sexually explicit, sexist, racist, or other offensive or derogatory material (e.g. posters, graffiti, emails etc.);
- Attitudes and labels that make assumptions about persons and their abilities based on their age;
- practical jokes that embarrass or insult someone, based on one of the prohibited grounds;
- unwanted physical contact such as and not limited to touching, pinching, patting, grabbing, or brushing against another person, etc;
- vandalism of personal property.

4. Examples of What Constitutes and What Does Not Constitute Psychological Harassment (Bullying)

4.1 Examples of psychological harassment include but are not limited to:

- discrediting a person, spreading rumours, ridiculing him or her, humiliating him or her, calling into question his or her convictions or his or her private life;
- preventing a person from expressing himself or herself: constantly interrupting him or her, prohibiting him or her from speaking to others;
- no longer talking to him or her at all, denying his or her presence, distancing him or her from others;
- destabilizing a person by making fun of his or her convictions, his or her tastes and/or his or her political opinions;
- undermining or deliberately impeding a person's work by withholding necessary information or purposefully giving the wrong information;
- aggressive behaviour such as finger pointing, standing close to an individual in an aggressive manner, pounding of fist against desk or wall;
- verbally abusive behaviour such as yelling, insults, threats and name calling.
- spreading malicious rumours or lies;
- unreasonably criticizing the performance of an individual;
- impeding an individual's efforts at promotions or transfers;
- messages, including voice mail, electronic mail, online chats, and comments posted on websites, that are threatening, derisory or defamatory;
- hazing or any other type of physical activity that intimidates or threatens a student with an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.

4.2 Psychological Harassment (Bullying) does not include:

- legitimate, constructive and fair criticism of a faculty member, staff member or student's performance/behaviour or the legitimate (i.e. not discriminatory, arbitrary, abusive or defamatory) exercise of academic freedom, freedom of thought and inquiry, and expression in teaching and research;
- The University will not condone bullying under the guise of "strong management" but, conversely, regards an assertive management style as acceptable provided that faculty, staff and students are treated with respect and dignity.

5. Examples of Sexual Harassment

5.1 Examples of Sexual Harassment include but are not limited to:

- any unwanted attention of a sexually oriented or gender oriented nature directed at an individual or group by another individual or group of the same or opposite sex who knows, or ought reasonably to know, that this attention is unwanted or unwelcome;
- any implied or expressed promise of reward for complying with a sexually oriented request or advance;
- any implied or expressed threat of reprisal for refusing to comply with an implied or expressed sexually-oriented request;
- any behaviour, verbal or physical, of a gender or sexually oriented nature that interferes with the academic or work environment of an individual or group or creates an intimidating or hostile, or offensive atmosphere.

6. Examples of Systemic Discrimination

6.1 Examples of systemic discrimination include but are not limited to:

- a policy requiring a height or weight requirement for participation in a school activity or as an employment criterion in a designated trade that is so high that it has the effect of excluding most women;
- a practice of constructing buildings without wheelchair access, thereby limiting access to employment or classes for individuals with mobility impairment.

7. Relationships Between Members of the Laurentian University Community

7.1 It is possible that romantic, sexual, and financial relationships may develop between members of the university community. Any member of the university community considering such a relationship should bear in mind that:

- a) In a relationship involving partners, one of whom holds authority over the other, the issue of mutual consent may be in question should a complaint of harassment and/or discrimination arise either during or after the relationship. Such complaints are among the most common on university campuses.

- b) A person engaging in a relationship with a person over whom he or she has the authority to grade papers or examinations, give performance reviews or recommend promotion or termination, or in any other way affect the person's employment or academic standing, should take particular care. Where such a power differential exists, it may be exceedingly difficult to defend against a charge of harassment on the grounds that the relationship was based on consent. The University generally will be unsympathetic to a defence that the relationship was consensual when the facts establish that the accused had the power to affect the Complainant's academic or employment status or future prospects. Even genuinely consensual relationships between faculty members and students may be problematic and result in favouritism or perceptions of favouritism that adversely affect the learning or work environment. Conflicts of interest, even where they do not constitute harassment and/or discrimination should be avoided. Under these circumstances, avoidance would normally involve the person in a position of authority asking to be relieved of such authority. Where such relief is impractical, or harmful to the rights of the less powerful party (e.g. where a professor is the only person competent to supervise a particular thesis), other procedures to ensure fairness must be devised, possibly in consultation with the appropriate department chair, dean or director.

FLOW CHART – Informal and Formal Resolution Process

Based on the Program on a Respectful Workplace and Learning Environment (“Program”) – Appendix B

