

**Program on  
A Respectful Workplace and Learning Environment**

Office of Administration:	Vice-President, Administration/ Vice-President, Academic and Provost
Approval Authority:	President and Vice-Chancellor
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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 individual in its community including students and employees is protected from Discrimination and Harassment and it shall establish mechanisms to give effect to the Policy on a Respectful Workplace and Learning Environment (the “Policy”) including:
  - 1.1.1 Developing and maintaining a program to implement the Policy with respect to Discrimination and Harassment;
  - 1.1.2 Developing and staffing an Equity, Diversity and Human Rights Office;
  - 1.1.3 Providing information and instruction on the contents of the Policy and this Program with respect to Discrimination and Harassment; and
  - 1.1.4 Providing ongoing training and institutional support and assistance to carry out responsibilities under the Policy.
  
- 1.2 This Program on A Respectful Workplace and Learning Environment (the “Program”) supplements the Policy and outlines the procedures which will be utilized in any and all instances of matters relating to the Policy. This document shall be utilized in implementing the Policy and shall outline the following:
  - 1.2.1 Measures and procedures for individuals including students and employees to report incidents of Discrimination and Harassment; and
  - 1.2.2 Set out the procedures as related to how Laurentian University will investigate and deal with incidents and complaints of Discrimination and Harassment.

## **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 and Harassment.
- 2.2 To ensure that individuals who believe that they are being subjected to acts of Discrimination and Harassment have mechanisms to access and/or report complaints.
- 2.3 To ensure that individuals are guided to available recourse if they believe that they are subject to Discrimination and Harassment, or become aware of situations involving violence.

## **3. Scope**

- 3.1 This Program 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 are to be utilized in this Program.

## **5. Equity, Diversity and Human Rights Office**

- 5.1 The Equity, Diversity and Human Rights Office is responsible for:
  - 5.1.1 Communication of the Policy and this Program;
  - 5.1.2 Development and delivery of educational programs aimed at preventing Discrimination and Harassment as well as informing the Laurentian Community on the Policy and this Program;
  - 5.1.3 Administration of the Policy this Program and related procedures;
  - 5.1.4 Interpretation of the Policy and this Program;
  - 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 enquiries; 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 Equity, Diversity and Human Rights Office 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 and this Program.
- 5.3 At the commencement of each academic year, the Equity, Diversity and Human Rights Office will seek nominations for a representative from each of the recognized Student Associations to act as liaison with the Equity, Diversity and Human Rights Office. 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 Equity, Diversity and Human Rights Office in an effort to promote student awareness of the Policy and this Program.

- 5.4 Laurentian University shall maintain a position of Assistant Vice-President, Equity, Diversity and Human Rights. The Assistant Vice-President, Equity, Diversity and Human Rights must have sound knowledge of the applicable laws and procedures as they relate to Discrimination and Harassment.
- 5.5 The President and Vice-Chancellor shall appoint an Assistant Vice-President, Equity, Diversity and Human Rights in accordance with Laurentian University's established hiring procedures.
- 5.6 The role of the Equity, Diversity and Human Rights Office is to:
  - 5.6.1 Offer support and guidance to the Laurentian Community with respect the Policy and this Program;
  - 5.6.2 Offer support and guidance to an individual making a complaint (the "Complainant") as to whether the alleged behaviour falls within the Policy and this Program;
  - 5.6.3 Offer support and guidance to an individual against whom a complaint has been made (the "Respondent");
  - 5.6.4 Outline and guide the Complainant on options for resolving the issue, including personal resolution, informal resolution using Alternative Dispute Resolution ("ADR") measures, or pursuing more formal resolution;
  - 5.6.5 Assist the parties to informally resolve matters, as required;
  - 5.6.6 Appoint an investigator as required, and coordinate the investigation process in a consistent, timely and fair manner;
  - 5.6.7 Assist and guide those with supervisory responsibilities in the resolution of human rights concerns;
  - 5.6.8 Make referrals to other Laurentian University departments;
  - 5.6.9 Bring to the attention of those in positions of responsibility any Laurentian University policy, procedures or practices that appear to discriminate against individuals or groups based on prohibited grounds as defined in the *Ontario Human Rights Code, 1990* (the "Code"); and
  - 5.6.10 Communicate emerging trends and patterns to appropriate Administrators within an affected unit.
  - 5.6.11 Provide feedback to assist in proactively addressing issues and promoting a respectful, diverse and inclusive community.

## 6. Complaints

- 6.1 General: If an individual believes that they are being discriminated against and/or harassed, options are available that offer employees and students an opportunity to choose a course of action that meets their needs. Resolution options fall into three (3) broad categories:
  - 6.1.1 Personal Resolution (self-managed or assisted): This involves telling the individual to stop and telling them that such behaviour is unacceptable, inappropriate or unwelcome. The individual should do so as soon as they are subjected to any unwelcome comments or conduct. Although this may be difficult to do, telling an individual that their actions are inappropriate is often enough to stop the behaviour. In a situation where an individual may be too uncomfortable to make an approach on their own, they may seek third party assistance for support and advice (see section 6.4 below).

- 6.1.2 Informal Resolution Process: This refers generally to a process and options other than a formal resolution process and can include mediation, negotiation, facilitation, conflict resolution conferences and other dispute resolution techniques (see section 9 below).
  - 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 (see section 10 below). A complaint may be 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 without merit. A complaint made in bad faith is a violation of the Policy and the Complainant may be subject to corrective measures/disciplinary action.
- 6.2 If an individual believes that someone who is not a member of the Laurentian University Community (e.g. volunteer, contractor or visitor) has discriminated against and/or harassed them, it is an individual's right to report the incident(s) to the Equity, Diversity and Human Rights Office. Although Laurentian University has limited control over third parties, it will do its best to address the issue and prevent further issues from arising.
- 6.3 If an individual believes that they have experienced Discrimination and/or Harassment they should keep a personal record of the details or incidents. This will be very helpful when the individual is seeking a resolution process as it will clarify both for that individual and the Equity, Diversity and Human Rights Office 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 individual (s) 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 individual (s) 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 individuals in authority in their unit, such as their Dean, Director, Associate/Assistant Vice-President or Vice-President, or from their Unions or Employee Associations.
  - 6.4.2 Prior to taking action or rendering assistance in the resolution of situations that may involve Harassment and/or Discrimination the individual seeking assistance and/or the individual being asked to assist are encouraged to contact the Equity, Diversity and Human Rights Office to discuss the proposed course of action.

From the Equity, Diversity and Human Rights Office:

6.4.3 The Equity, Diversity and Human Rights Office is available to provide information about the Policy and this Program (including procedures) to any member of the Laurentian University Community, including individuals who believe they may have experienced or witnessed Discrimination and/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 Equity, Diversity and Human Rights Office is an impartial, neutral source of information about Harassment, Discrimination and the interpretation and implementation of the Policy and this Program. The Equity, Diversity and Human Rights Office is not an advocate for either party.

6.4.5 One of the Equity, Diversity and Human Rights Office's key roles, and the initial purpose of any consultation, is to provide the individual with the information they need about the Policy and this 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 or assisted) resolution, the informal resolution process and the formal resolution process, including their respective advantages and disadvantages and/or, as required, interpretations and explanation of the Policy and this Program (including procedures).

6.4.5.2 The Equity, Diversity and Human Rights Office 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 Laurentian 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 and/or Harassment has the option to:

6.4.5.3.1 Submit a written complaint (Case Resolution Request Form), and provide details of the cause for concern; or,

6.4.5.3.2 Proceed on their own with a personal (self-managed or assisted) resolution; or

6.4.5.3.3 Take no further action.

## 6.5 Intake and Assessment Criteria:

The decision on whether or not to proceed with a resolution process, whether informal or formal, shall be made by the Equity, Diversity and Human Rights Office. On receiving a written complaint (Case Resolution Request Form), the Equity, Diversity and Human Rights Office will assess whether all four (4) of the following criteria have been met:

6.5.1 Whether the matter is within the jurisdiction of Laurentian University i.e. involving employees and/or students of Laurentian University;

6.5.2 Whether the allegations fall within the scope of the Policy and this Program, i.e. alleging Discrimination and/or Harassment;

6.5.3 Whether the complaint is timely i.e. the most recent alleged incident occurred within the past year; and

6.5.4 Whether the complaint establishes a *prima facie* case of Discrimination and/or Harassment. The burden of proof is on the Complainant to establish a *prima facie*

case of Discrimination and/or Harassment i.e. by alleging facts that tend to establish the essential elements of the definition.

- 6.6 Where the complaint lacks sufficient detail or does not address important evidentiary points, but does tend to establish a *prima facie* case, the Equity, Diversity and Human Rights Office may make appropriate enquiries with the Complainant and the Respondent to supplement the information provided.
- 6.7 If the complaint does not involve an employee or student, and only seeks redress from Laurentian University e.g. alleging that the University itself has failed to meet its obligation to provide a safe and healthy environment free of Discrimination and Harassment the matter shall be referred to the Vice-President, Administration as well as the Vice-President, Academic and Provost, who may direct an investigation and order any interim measures or relief that, they deem fit. The Complainant shall be so notified, in writing, with reasons.
- 6.8 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 issue, the Equity, Diversity and Human Rights Office may be able to recommend other problem solving options or refer the Complainant to other Laurentian University services or resources.
- 6.9 Upon request, the Equity, Diversity and Human Rights Office 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 Employee Association representative, a trusted friend or colleague or anyone else they deem appropriate.
- 6.10 After a complaint has been accepted by the Equity, Diversity and Human Rights Office, the Equity, Diversity and Human Rights Office will determine if any immediate action or interim measures are required to protect the health, safety and security of the Complainant, the Respondent, Laurentian University, its community or any of its members. This may be done in consultation with the Associate Vice-President, Human Resources and Organizational Development in circumstances which warrant same.
- 6.11 These measures may include but are not limited to:
  - 6.11.1 Limiting access to facilities and/or areas within a department;
  - 6.11.2 Making arrangements for academic accommodations;
  - 6.11.3 Change in reporting relationship or worksite; or
  - 6.11.4 Discontinuing contact between the Complainant and the Respondent during the period of the proceedings under the Policy and this Program (collectively referred to as "Interim Measures").
- 6.12 Interim Measures, if required, are to be implemented by the appropriate Laurentian University personnel. Where appropriate, 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 Laurentian University policy. Any Interim Measures are taken on a without prejudice basis.

- 6.13 Nothing in the Policy or this Program precludes a member of the Executive Team from invoking an ADR process or an investigation in accordance with these procedures or independent of the Equity, Diversity and Human Rights Office in circumstances warranting same and/or in a situation where Laurentian University reasonably believes that Discrimination and/or Harassment may have occurred, even though no individual has complained about a violation of the Policy or this Program. This will be done in consultation with the Assistant Vice-President, Equity, Diversity and Human Rights.
- 6.14 All complaints must be initiated as soon as possible and within one year of the most recent alleged incident occurring. In extenuating circumstances, and at the discretion of the Assistant Vice-President, Equity, Diversity and Human Rights, an extension of time may be considered.

## **7. No Reprisal or Retaliation**

- 7.1 There shall be no reprisal or retaliation nor any threat of reprisal or retaliation against anyone pursuing their rights under the Policy and this Program. Any such alleged reprisal or retaliation or threat thereof shall be equivalent grounds for laying a complaint under the Policy and this Program. Retaliations can also constitute infractions under applicable legislation.
- 7.2 Discrimination and Harassment in the Policy are serious matters. The Policy and this Program prohibit reprisals or retaliation against individuals who have made good faith complaints or provided information regarding a complaint, incident or report of an incident of Discrimination and/or Harassment. Individuals who engage in reprisals and retaliation and/or threats of reprisal or retaliation may be disciplined up to and including being expelled from the University and/or dismissal from employment.

## **8. Rights of the Complainant and the Respondent**

### **8.1 Rights of the Complainant:**

If an individual believes that they are being Harassed or Discriminated against they have the right to:

- 8.1.1 Meet with a staff member in the Equity, Diversity and Human Rights Office to raise or discuss matters under the Policy and this Program.
- 8.1.2 File a written complaint (Case Resolution Request Form) to be dealt with through the Informal Resolution Process and/or Formal Resolution Process as described in sections 9 and 10 below, respectively, subject to section 6.5.
- 8.1.3 Have the matter dealt with promptly, without fear of embarrassment or reprisal.
- 8.1.4 Have an individual's person of their choice, including a representative from their Union or Employee Association or a student advocate, accompany them during the process (the "Support Person").
- 8.1.5 Be informed about the progress of the matter.
- 8.1.6 Be treated fairly.
- 8.1.7 Be informed of the type of corrective measures/disciplinary action that will result from the matter.

### **8.2 Rights of the Respondent:**

The individual against whom allegations have been made under the Policy, has the right to:

- 8.2.1 Meet with a staff member in the Equity, Diversity and Human Rights Office.
  - 8.2.2 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.
  - 8.2.3 Have a Support Person, accompany them during the process.
  - 8.2.4 Be informed about the progress of the matter.
  - 8.2.5 Be treated fairly.
  - 8.2.6 Be informed of the type of corrective measures/disciplinary action that will result from substantiated allegations.
- 8.3 Support Person:
- 8.3.1 The role of the Support Person is to:
    - 8.3.1.1 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;
    - 8.3.1.2 Support the investigator's objective of conducting a full, fair and impartial investigation;
  - 8.3.2 The Support Person cannot be a witness in any subsequent investigation under this Program.
  - 8.3.3 The Equity, Diversity and Human Rights Office representative or the investigator may terminate or postpone the interview and/or meeting if the behaviour of the Support Person is deemed inappropriate.
  - 8.3.4 Any costs associated with the attendance of a Support Person shall be borne by the Complainant or the Respondent, as the case may be.

## **9. Informal Resolution Process by Way of Alternative Dispute Resolution (ADR)**

- 9.1 The Informal Resolution Process (the "Informal Process") refers, generally, to a problem-solving approach, chosen and controlled by the individuals involved, to achieve a satisfactory resolution and it does not create a formal record in the individual's official personnel or student file. The Informal Process will be initiated by an individual submitting a written complaint (Case Resolution Request Form) which sets out a summary/details of any alleged incidents. The Informal Process may proceed, subject to section 6.5. Following this, the Respondent will be contacted by the Equity, Diversity and Human Rights Office within ten (10) working days to discuss the issues raised in the written complaint.
- 9.2 The Informal Process will attempt to be conciliatory rather than adversarial. This Informal Process involves 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.
- 9.3 In the first instance, the Equity, Diversity and Human Rights Office will explore the use of ADR with the parties to resolve the matter. Where the parties agree, the Equity, Diversity and Human Rights Office will work together with the parties to resolve the matter.

- 9.4 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 Equity, Diversity and Human Rights Office 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 Equity, Diversity and Human Rights Office in circumstances warranting same.
- 9.5 Any information provided during ADR is without prejudice and will not be introduced as evidence in any subsequent investigation or process unless the Assistant Vice-President, Equity, Diversity and Human Rights determines that such information may be relevant to the investigation and shall not prejudice either party.
- 9.6 One type of ADR is formal mediation; a collaborative process to produce agreement or resolution. If someone has accused an individual of Discrimination and/or Harassment, and has not been able to resolve the situation with that individual informally, mediation is a possible next step. Formal mediation may make a Formal Resolution Process unnecessary. An individual can ask for formal mediation or they may agree, if it is suggested to them. However, an individual does not have to agree if they think that they are being pressured into something that does not feel right to them.
- 9.6.1 If an individual wants to work toward a mediated settlement, the Equity, Diversity and Human Rights Office will appoint a qualified mediator, from within Laurentian University or from outside it, who is acceptable to both parties.
- 9.6.2 At the conclusion of the formal mediation if a mutually acceptable resolution is agreed on by the parties, the mediator shall prepare an agreement and have it signed by both parties who will each be given a copy (the "Resolution Agreement"). The Equity, Diversity and Human Rights Office will work with the parties to implement the terms of the Resolution Agreement.
- 9.6.3 Any information disclosed in the course of the formal mediation will not be introduced as evidence in an investigation should there be a Formal Resolution Process.
- 9.6.4 At the conclusion of the formal mediation process, and notwithstanding the outcome, each party shall be informed in writing of the result.
- 9.7 Failing resolution of the matter through ADR the Complainant shall have the right to either continue to explore other means of informal resolution or proceed to a Formal Resolution Process under section 10.
- 9.8 The Equity, Diversity and Human Rights Office will endeavour to complete an Informal Process within sixty (60) working days of the Equity, Diversity and Human Rights Office making contact with the Respondent to discuss the matter.

## **10. Formal Resolution Process**

### **10.1 General**

- 10.1.1 If the matter cannot be resolved by the Informal Process or if it is too serious to be dealt with by the Informal Process or if the Informal Process is deemed not appropriate, the Formal Resolution Process may be initiated, subject to section 6.5. For clarity, no investigation shall be undertaken unless the complaint establishes a *prima facie* case of Discrimination and/or Harassment.
- 10.1.2 If the Equity, Diversity and Human Rights Office decides not to proceed, the Complainant shall be informed in writing. The Complainant will also be informed about their right to appeal this decision in accordance with the Appeal Procedures described below in section 11.
- 10.1.3 Both the Complainant and the Respondent will be informed of their rights under the Policy and this Program.

## 10.2 Complaint/Notification

- 10.2.1 Upon the Equity, Diversity and Human Rights Office accepting the complaint under the Formal Resolution Process, based on the criteria noted above, they shall:
  - 10.2.1.1 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 this Program.
  - 10.2.1.2 Where appropriate, inform the relevant Direct Supervisor for each party that a complaint has been filed and an investigation initiated. Where appropriate, the Assistant Vice-President, Equity, Diversity and Human Rights will also recommend and/or discuss the need for Interim Measures.
  - 10.2.1.3 Inform the relevant Union or Employee Association for each party that a complaint has been filed and an investigation initiated.

## 10.3 Response

- 10.3.1 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.
- 10.3.2 The Respondent is entitled to the same level of assistance in the process as is available to the Complainant. If they have not already done so, the Respondent has the right to contact the Equity, Diversity and Human Rights Office in order to obtain information, guidance and assistance and discuss options. The Equity, Diversity and Human Rights Office will not directly assist the Respondent to prepare their response; a Respondent may seek such assistance from a Union or Employee Association representative, a trusted friend or colleague or anyone else they deem appropriate.

## 10.4 Reply

- 10.4.1 The Complainant shall be provided with a copy or summary of the response and has the right (but is not obliged) to reply, in writing, within five (5) working days. The Complainant may, in their reply, 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.
- 10.4.2 The Respondent is provided with a summary of the Complainant's reply, which ends this stage of the process.

## 10.5 Investigation Initiation

- 10.5.1 Once the complaint is accepted under the Formal Resolution Process, the Equity, Diversity and Human Rights Office will appoint an investigator, who is impartial and unbiased and who is trained in investigation techniques, to conduct a fair, thorough and complete investigation of the complaint as expeditiously as possible.
- 10.5.2 Any party to the Formal Resolution Process 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 their part. A party raising the challenge will submit it in writing to the Equity, Diversity and Human Rights Office, 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.
- 10.5.3 Once the investigator has been appointed, the Equity, Diversity and Human Rights Office will make all relevant documentation collected about the complaint available to them. The investigator may 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 individuals 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 individuals 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 for the investigator to re-interview the parties before issuing their report.
- 10.5.4 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.
- 10.5.5 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.

- 10.5.6 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.

## 10.6 Interviews

- 10.6.1 During the investigation, every attempt will be made to interview the Complainant first. Usually the Respondent will be interviewed second because they have the right to reply fully to the allegations made against them and to name their witnesses.
- 10.6.2 In all circumstances, interviews with witnesses will occur after the Complainant and the Respondent have been given an opportunity to be interviewed.
- 10.6.3 There is an obligation on members of the Laurentian University Community to cooperate in the investigation of a complaint.
- 10.6.4 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.

## 10.7 Postponement

- 10.7.1 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 (under section 9 of the Program) through the Equity, Diversity and Human Rights Office. Should ADR not be successful, the investigator will restart the investigation.
- 10.7.2 The Assistant Vice-President, Equity, Diversity and Human Rights may decide to postpone, suspend or cancel any investigation if its continuance would duplicate or prejudice another proceeding or bring the administration of the Policy and this Program into disrepute. In coming to a decision, the Assistant Vice-President, Equity, Diversity and Human Rights will consider such factors as:
  - 10.7.2.1 Laurentian University's responsibility to provide an environment free from Harassment and/or Discrimination.
  - 10.7.2.2 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 their collective agreement or other policy established by Laurentian University rather than through the Policy and this Program, Laurentian University reserves the right to continue with its own investigation to address the matter in compliance with its obligations under the Code or the OHSA).
  - 10.7.2.3 Other legal procedures that may be initiated to protect statutory rights.

10.7.2.4 The wishes of the parties.

## 10.8 Balance of Probabilities

10.8.1 The investigator will decide whether, on a balance of probabilities, there is enough evidence to conclude that Discrimination and/or Harassment occurred.

## 10.9 Time Frame

10.9.1 The investigation shall normally 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 section 10.5.2).

10.9.2 Time that elapses during the suspension of an investigation will not be included when calculating this time limitation (see section 10.7 Postponement).

10.9.3 In extenuating circumstances, where the investigation goes beyond this timeframe, the parties and their Unions or Employee Associations will be advised and will be provided with reasons for the delay.

## 10.10 Investigation Results and Reports

10.10.1 The investigator shall submit a written report to the Assistant Vice-President, Equity, Diversity and Human Rights summarizing the results of the investigation and including a determination as to whether the Policy has been breached (the "Report").

10.10.2 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:

- 10.10.2.1 allegations in the complaint are substantiated; or
- 10.10.2.2 allegations in the complaint are unsubstantiated; or
- 10.10.2.3 there is insufficient evidence on which to base a finding; or
- 10.10.2.4 the complaint was frivolous, vexatious, malicious or made in bad faith.

10.10.3 The conclusion of the investigation is marked by the delivery of the Report by the investigator.

10.10.4 Within five (5) working days of the conclusion of the investigation, the Assistant Vice-President, Equity, Diversity and Human Rights, after reviewing the Report, will submit same to one of the following decision makers as follows, depending on the parties involved in the investigation:

- 10.10.4.1 Associate Vice-President, Human Resources and Organizational Development if it is an employee other than a faculty member; or
- 10.10.4.2 Vice-President, Academic and Provost, if it is a member of faculty; or

- 10.10.4.3 Associate Vice-President, Learning and Teaching if it is a student; or
  - 10.10.4.4 Vice-President, Administration if it is an Administrator; or
  - 10.10.4.5 President and Vice-Chancellor if it is a Senior Administrator, other than the President and Vice-Chancellor; or
  - 10.10.4.6 Chair of the Board of Governors if it is the President and Vice-Chancellor of Laurentian University.
- 10.10.5 Within fifteen (15) working days of receiving the Report from the Assistant Vice-President, Equity, Diversity and Human Rights, the decision maker who receives the Report will then decide, in accordance with the Policy and this Program and any applicable collective agreements:
- 10.10.5.1 What remedies, if any, will be provided to the Complainant.
  - 10.10.5.2 The corrective measures /disciplinary action, if any, to be imposed on the Respondent.
  - 10.10.5.3 The corrective measures/disciplinary action to be imposed on the Complainant in the case of a frivolous, vexatious, malicious, or bad faith complaint.
  - 10.10.5.4 Whether the employee or student in question can continue in their current workplace or learning environment.
- 10.10.6 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.
- 10.10.7 The decision maker will communicate its decision in writing to the Assistant Vice-President, Equity, Diversity and Human Rights (the “Written Decision”). This decision shall be included in the Notice of Decision.

#### 10.11 Notice of Decision

- 10.11.1 Upon receipt of the Written Decision, the Assistant Vice-President, Equity, Diversity and Human Rights will then prepare a confidential Notice of Decision which shall summarize the Report and set out the decision including any remedies and/or corrective measures and/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.
- 10.11.2 The Notice of Decision will be marked *Confidential* and will be subject to the confidentiality provisions set out below at section 14.
- 10.11.3 Where the decision maker is contemplating corrective measures/disciplinary action as a result of the investigation, a request for a meeting will be sent to the Respondent and/or Complainant, as the case may be, and their Union or Employee 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.

- 10.11.4 Following its meeting with the Respondent and/or Complainant, as the case may be, the decision maker will consider the representation of the Respondent and/or Complainant, as the case may be, and their Union or Employee Association prior to making a final decision in regards to corrective measures/disciplinary action.
- 10.11.5 Within five (5) working days of the meeting noted above, the decision maker shall notify the Respondent and/or Complainant, as the case may be, and Union or Employee Association in writing as to whether corrective measures shall be taken and/or discipline shall be imposed, the nature of the corrective measures/disciplinary action, the reasons for it and the events being relied upon to support it.
- 10.11.6 The Assistant Vice-President, Equity, Diversity and Human Rights will provide a copy of the Notice of Decision to the Complainant and their Union or Employee Association representative.
- 10.11.7 Within ten (10) working days or sooner from the date where corrective measures/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 /or any changes in work.

#### **10.12 Remedies/Corrective Measures**

- 10.12.1 Laurentian University will make every reasonable effort to remedy the effects of the Discrimination and Harassment. The Complainant may receive one or more remedies depending on the severity of the matter and how they were affected. These remedies include but are not limited to a:
  - 10.12.1.1 verbal or written apology from the Respondent;
  - 10.12.1.2 compensation for lost wages;
  - 10.12.1.3 job or promotion that was denied;
  - 10.12.1.4 compensation for lost tuition;
  - 10.12.1.5 transfer of the student with the student's consent from one course or section to another;
  - 10.12.1.6 reassignment of graduate supervisors;
  - 10.12.1.7 commitment that they will not be transferred, or will have a transfer reversed, unless they choose to move; and/or
  - 10.12.1.8 change in work or study conditions or arrangements.
- 10.12.2 No record of the complaint, investigation or decision will go in the Complainant's official personnel or student file, if the complaint was made in good faith.

#### **10.13 Corrective/Disciplinary Action**

- 10.13.1 An individual who has Discriminated against, and/or Harassed another individual 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 Laurentian University to remedy the situation to ensure a respectful workplace and learning environment.

10.13.2 If the investigation does not find evidence to support the complaint, there will be no documentation concerning the complaint placed in the official personnel or student file of the Respondent.

10.13.3 When the investigation reveals that Discrimination and/or Harassment occurred, the incident and the corrective measures/disciplinary action which is imposed on the Respondent will be recorded in the Respondent's official personnel or student file. If the investigation reveals that the complaint was frivolous, vexatious, malicious, or made in bad faith, the incident and the corrective measures/disciplinary action which is imposed on the Complainant will be recorded in the Complainant's official personnel or student file.

#### **10.14 No Breach**

10.14.1 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.

### **11. Appeal Procedures**

#### **11.1 Faculty and Staff Appeals**

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

#### **11.2 Non-Union Employee Appeals**

11.2.1 Any Complainant or Respondent who is a non-union employee adversely affected by the decision may appeal the decision directly to the Vice-President, Administration\* within ten (10) working days of receipt of the Notice of Decision by requesting an appeal in writing.

11.2.2 The grounds of the available appeal are that there has been a misinterpretation, a violation, an improper application, or faulty administration of the Policy and/or this Program, or that the corrective measures/disciplinary action imposed are excessive.

11.2.3 Within ten (10) working days of receiving the written appeal, the Vice-President, Administration will render a final, written decision.

#### **11.3 Student Appeals**

11.3.1 Any Complainant or Respondent who is a student adversely affected by the decision may appeal the decision directly to the Vice-President, Academic and Provost\*\* within ten (10) working days.

- 11.3.2 The grounds of the available appeal are that there has been a misinterpretation, a violation, an improper application, or faulty administration of the Policy and/or this Program or, that the corrective measures/disciplinary action imposed are excessive.
- 11.3.3 In the case of an appeal against corrective measures/disciplinary action, the Vice-President, Academic and Provost will consult with the Associate Vice-President, Learning and Teaching before reaching a final decision.
- 11.3.4 Within ten (10) working days of receiving the written appeal, the Vice-President, Academic and Provost will render a final, written decision.

\* In the case of a conflict, the Vice-President, Academic and Provost

\*\* In the case of a conflict, the Vice-President, Administration

## **12. Files of the Equity, Diversity and Human Rights Office**

- 12.1 The Equity, Diversity and Human Rights Office will retain the written complaint and all supporting documentation, reports and notices, as a confidential document except as provided in the Policy and this Program.
- 12.2 These files will be retained for five (5) years from the date the complaint was filed pursuant to the Policy and this Program, after which time they will be disposed of in a manner that protects the security and confidentiality of the information.

## **13. Additional Information**

### **13.1 Additional Recourse Available to the Complainant**

- 13.1.1 The Policy and this Program does not in any way prevent an individual seeking redress from the Human Rights Tribunal of Ontario.
- 13.1.2 Nothing in the Policy or this Program denies or limits access to other redress available under the law and/or any applicable collective agreement.

## **14. Confidentiality**

- 14.1 Confidentiality is required in all procedures under the Policy and this Program. Because of the particular sensitivity of Discrimination and Harassment complaints and their consequences, confidentiality is of the utmost importance and will be maintained at all times, unless the safety of members of the Laurentian Community are at risk or subject to the disclosure requirements under the 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.

- 14.2 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.
- 14.3 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.
- 14.4 Also, notice as prescribed in section 10.2 of this Program will be made.

## **15. Notice of Collection of Personal Information Under the Policy and this Program**

- 15.1 Any personal information about an individual collected in respect of the Policy and this Program, 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 and this Program. If an individual has any questions about the collection, use, and disclosure of this information please contact the Senior Administrator responsible for the Policy and this Program.

## **16. Legislation, Policies and Procedures**

- 16.1 The Policy and this Program are part of a tetralogy of Laurentian University policies that support learning and working places free from Discrimination, Harassment, violence and sexual violence including:
- 16.1.1 Laurentian University Code of Student Rights and Responsibilities
  - 16.1.2 Laurentian University Policy on Response and Prevention of Sexual Violence
  - 16.1.3 Laurentian University Policy and Program on Workplace Violence Prevention
- 16.2 Additional related Legislation, Policies, Procedures and Other Documents
- 16.2.1 *Accessibility for Ontarians with Disabilities Act, 2005*
  - 16.2.2 *Freedom of Information and Protection of Privacy Act, 1990*
  - 16.2.3 *Occupational Health and Safety Act, 1990*
  - 16.2.4 *Ontario Human Rights Code, 1990*
  - 16.2.5 *Labour Relations Act, 1995*
  - 16.2.6 *Employment Standards Act, 2000*
  - 16.2.7 Applicable Collective Agreements
  - 16.2.8 Community Standards Manual for Laurentian University Residence Complex (University College Residence, Single Student Residence, Mature Student Residence, West Residence)
  - 16.2.9 Employment Equity Policy
  - 16.2.10 Policy on Accessibility Standards for Customer Service
  - 16.2.11 Policy on Academic Accommodation for Students with Disabilities
  - 16.2.12 Guidelines on Academic Accommodation for Students with Disabilities
  - 16.2.13 Laurentian University of Sudbury Varsity Team Member Guidelines

## APPENDIX A

### 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 the Accessibility Services Office and that are required for an exam or assignment;
- preventing an individual from attending a course, or refusing them employment or refusing them 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 Code is not infringed by implementing a special program designed to relieve hardship or economic disadvantage or to assist disadvantaged individuals 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 individual 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 their rights (article 17(1) of the Code). (\*Note: Article 17(2) of the Code states that an individual will not be found “incapable unless the needs of this individual cannot be accommodated without undue hardship on the individual 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 individuals 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 individuals 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 individual, etc;
- vandalism of personal property.

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

##### 4.1 Examples of Bullying include but are not limited to:

- discrediting an individual, spreading rumours, ridiculing them, humiliating them, calling into question their convictions or their private life;
- preventing an individual from expressing themselves: constantly interrupting them, prohibiting them from speaking to others;
- no longer talking to them at all, denying their presence, distancing them from others;
- destabilizing an individual by making fun of their convictions, their tastes and/or their political opinions;
- undermining or deliberately impeding a individual'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 Bullying (Psychological Harassment) 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 Laurentian University Community. Any member of the Laurentian 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) An individual engaging in a relationship with an individual over whom they have the authority to grade papers or examinations, give performance reviews or recommend promotion or termination, or in any other way affect the individual'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. Laurentian 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 individual 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 individual 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

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

