



# Respectful Work and Learning Environment Policy

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## INTRODUCTION

Brock University is committed to building and maintaining a diverse and inclusive community where our students, staff, faculty, course participants, volunteers and visitors can work and learn in an environment that respects the dignity and worth of members of the Brock community.

**Acknowledgements:** Brock University, the Special Harassment Prevention Policy Task Force and the Office of Human Rights and Equity Services, wish to acknowledge the following institutions, whose related policies and procedures provided important assistance, ideas and background in the development of this policy: University of Manitoba, Guelph University, Queen's University, Sheridan College, University of British Columbia, University of Kent, University of Strathclyde, University of Sussex, and University of Bradford.

## PURPOSE

The purpose of this policy is to:

- Develop and support a work and learning culture that values diversity and inclusion, fosters respect, and does not tolerate prejudice, discrimination, harassment and/or bullying;
- Outline rights, responsibilities and types of behaviour which fall within the scope of this policy;
- Make provision for support services, including training and awareness initiatives, to promote a respectful work and learning environment; and
- Outline procedures for handling and resolving complaints when this policy is breached by discrimination, harassment and/or bullying.

This policy does not cover issues of academic integrity, which may be covered under other policies and procedures of the University.

## SCOPE

This policy applies to:

- All students, course participants, staff, faculty, and volunteers of Brock University.
- Any visitors to Brock University.

This policy is in effect at all times – fifty-two (52) weeks per year, seven (7) days per week, twenty-four (24) hours per day, and is not limited to working days.

## POLICY

### Definitions

1. No policy document can give a full description and definition of behaviours that fall within the meaning of harassment and bullying. Appendix A lists examples of behaviours that can fall within these definitions and training opportunities will be offered by the Office of Human Rights and Equity Services for members of the Brock community to explore these in more depth.

“Alternative Dispute Resolution” means a process that parties can use to reach their own agreement without going to court or trial, and can include mediation, negotiation, facilitation, settlement conferences, and other dispute resolution techniques. The Office of Human Rights and Equity Services shall normally conduct Alternative Dispute Resolution of matters falling under this policy.

“Brock University premises” means building and lands owned, leased, operated, controlled or supervised by the University.

“Bullying” means persistent, offensive, abusive, intimidating or insulting behaviour, abuse of power and/or unfair punitive sanctions which makes the recipient feel upset, threatened, humiliated and/or vulnerable, which undermines the recipient’s self-confidence and/or reduces the recipient’s feelings of self-esteem and self-worth, and which may cause the recipient to suffer stress. Bullying can take many forms; please see Appendix A for examples.

“Course participants” means a person registered in a course or program of study offered through Continuing Education (Department of Community Services) or English as a Second Language Services Division, or any person who is auditing any course or program at Brock University.

“Disability” as set out in the Ontario Human Rights Code, means,

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
- (b) a condition of mental impairment or a developmental disability,
- (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- (d) a mental disorder, or
- (e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act.

“Discrimination” means differential treatment of an individual or group which is based on a personal characteristic (such as gender, race, creed, disability, and/or sexual or gender orientation) of that individual or group, and which has an adverse impact on them.

“Faculty” means teaching and/or research staff of the University, including Professors, Librarians, Associate Professors, Assistant Professors, Adjunct Professors, Lecturers, and Part-time Instructors.

“Harassment” means a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Single acts of sufficient severity may also constitute harassment.

“Human Rights Harassment” means engaging in a course of vexatious comment or conduct that is known to be or ought reasonably to be known to be unwelcome to an individual or group, whether intended or not, based on: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, gender identification, sexual orientation, age, marital status, family status, disability, record of offences (in employment only), and receipt of public assistance (in accommodation only) as defined by the Ontario Human Rights Code.

“Human Rights Discrimination” means differential treatment of an individual or group which is based on a personal characteristic of that individual or group and which has an adverse impact on them. Personal characteristics include: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, gender identification, sexual orientation, age, marital status, family status, disability, record of offences (in employment only), and receipt of public assistance (in accommodation only) as defined by the Ontario Human Rights Code.

“Managers” means faculty or staff who supervise other employees of the University.

“Personal Harassment” means one or a series of objectionable and unwelcome comments or conduct directed toward a specific person or group of persons which diminish the dignity of the recipient(s) and serve no legitimate

work or academic related purpose, and/or have the effect of creating an intimidating, humiliating or hostile work or learning environment. Personal harassment can take many forms; please see Appendix A for examples.

“Psychological Harassment” means any vexatious behaviour in the form of repeated and hostile or unwanted conduct, comments, actions or gestures, that affects an individual’s dignity or psychological or physical integrity and that results in a harmful work or learning environment for the individual. Psychological harassment can take many forms; please see Appendix A for examples.

“Senior Administration” includes the President, Vice Presidents, Chief Information Officer, Associate Vice Presidents, Executive Directors, Deans, and Librarian.

“Senior Managers” includes Directors, Registrar, Associate Deans, Associate Directors, and Assistant Directors who manage departments.

“Sexual Harassment” is deemed to include, but is not restricted to:

- (a) 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 know, that this attention is unwanted;
- (b) any implied or expressed promise of reward for complying with a sexually-oriented request or advance;
- (c) any implied or expressed threat of reprisal for refusing to comply with an implied or expressed sexually-oriented request;
- (d) 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 atmosphere.

“Staff” means any person employed by the University (except “Faculty” as defined above), whether full or part time. Students may also be employed as staff of the University and shall be treated as “staff” under this policy where an incident occurs within the scope of their employment.

“Student” means a person who is registered in a course of study approved by the Senate; engaged in any academic work which leads to the recording and/or issue of a mark, grade or statement of performance by the appropriate authority in the University or another institution; entitled to a valid student card who is between sessions but is entitled because of student status to use University facilities; and/or participating in the Intensive English Language Program. Staff of the University may also be students at the University. Staff shall be treated as a “student” under this policy where an incident occurs while they are acting within their role as a student and outside the scope of their employment.

“Vexatious” means lacking a sufficient ground and only serving to annoy and distress.

“Visitor” means a person who is attending Brock University premises for educational, employment, recreational or other purposes but is not a student, course participant, staff or faculty member of the university, as defined by this policy. This would include: members of the local community attending events held on campus or making use of recreational facilities on campus, guests of students, staff and faculty, guests of Conference Services staying in residence accommodation, and contractors or other persons working on Brock University premises but not employed by Brock University.

“Volunteer” means a person who provides services to the University for which they are not being paid. Where a volunteer is also a student, staff or faculty member, they will be treated as a “student”, “staff” and “faculty” member under this policy.

“Working Days” means Mondays to Fridays, excluding Saturdays, Sundays and paid holidays observed by the University.

2. Brock University supports equity, diversity and the dignity of all people. The University promotes equality in our learning programs, services and employment and in the conduct of the University’s affairs.

The University recognizes the following:

- A richly diverse society in Ontario, as well as beyond;
- A duty to act in a manner consistent with existing legislation regarding human rights;
- A commitment to academic freedom and freedom of thought, inquiry, and expression among its members that may result in respectful disagreements regarding beliefs or principles.

3. Brock University opposes behaviour that is likely to undermine the dignity, self-esteem or productivity of any of its members and prohibits any form of discrimination or harassment whether it occurs on University property or in conjunction with University-related activities. Therefore, Brock University is committed to an inclusive and respectful work and learning environment, free from:

- Human rights discrimination or harassment;
- Sexual harassment; and
- Personal harassment, psychological harassment and bullying.

4. Harassment and discrimination violate an individual's human rights and run contrary to the University's fundamental values. Brock University will act promptly and efficiently to deal with these behaviours. It will endeavour to ensure that individuals who believe that they have been subjected to harassment or discrimination are able to express concerns and register complaints without fear of retaliation or reprisal. The University will exercise care to protect and respect the rights of both the complainant and the respondent.

5. Brock University will establish mechanisms to give effect to this Policy including:

- Development and staffing of the Office of Human Rights and Equity Services which will be responsible for the administration of this policy and procedures, including advising individual complainants about their rights and options under this policy and procedures, and overseeing investigations conducted under this policy and procedures
- Make training available for faculty, staff, students and volunteers, related to harassment and discrimination;
- Establish and implement awareness programs designed to enhance awareness of the Respectful Work and Learning Environment Policy and procedures relating to it.

6. Each year a report will be prepared by the Office of Human Rights and Equity Services and made available to the University community concerning the number, type and disposition of cases and on educational and other activities related to the Policy. A copy of this report shall be forwarded to the Planning, Finance and Human Resources Committee of the Board of Trustees annually.

7. While Brock University supports the use of alternative dispute resolution for the informal resolution of problems associated with such behaviour, it considers harassment and discrimination in all forms to be serious offences. Where breaches of this policy have been found and cannot be resolved through alternative dispute resolution practices, such behaviour may attract discipline and sanctions in accordance with university codes of conduct for students, human resources policies, procedures and practices, and relevant collective agreements.

### **Rights and Responsibilities**

8. Each individual has the right to participate, learn, and work in an environment that promotes equal opportunities and prohibits all forms of harassment and discrimination.

9. Brock University and all members of the University community share the responsibility of establishing and maintaining a climate of respect within this community and to address any situations in which respect is lacking. This means not engaging in, allowing, condoning or ignoring behaviour contrary to this Policy. This policy is not meant to interfere with mutually acceptable social interactions that are an important part of a comfortable working and academic environment.

10. Faculty, staff, students, course participants, volunteers and visitors have the right to:

- An environment which supports them in their work and study and which is free from discrimination, harassment and/or bullying
- Access this Policy and its procedures for dealing with breaches and complaints
- Be supported in a sensitive and confidential manner, when addressing breaches and complaints, by members of the University who have been given relevant training
- Attend training opportunities related to diversity awareness and this policy and procedures

11. Faculty, staff, students, course participants, volunteers and visitors have the responsibility, as individuals and managers:

- For their own behaviour and actions
- To recognize and support the right of all individuals to dignity at work and study and to maintain an environment in which this can flourish

- To familiarize themselves with this policy, which may include attending training appropriate to their position within the University
  - To take the initiative in identifying bullying and harassment and to take reasonable corrective or preventative action in accordance with this policy and its procedures. The University has a duty of care under Health and Safety, Employment and Human Rights legislation. Therefore, faculty and staff cannot ignore unacceptable behaviour and are encouraged to bring to the attention of the appropriate level of management any harassment they might themselves receive or witness. This policy does not inhibit firm but fair management.
12. Senior administration and senior managers have the responsibility to:
- Communicate this policy to their faculty and staff and encourage all faculty and staff to attend relevant training related to this policy and its procedures
  - Ensure that where it is necessary to take remedial or disciplinary action against a member of faculty, staff, student, course participant, volunteer or visitor, this is done fairly and in accordance with the disciplinary measures within relevant collective agreements and University procedures.
13. The Students' Union has the responsibility, with the University:
- To promote student awareness about their behaviour and their personal responsibilities under this policy and procedures.
14. The University recognizes its responsibility to ensure that every person in its community is protected from unlawful discrimination and harassment in accordance with the Ontario Human Rights Code. Any action, or failure to act, that results in harassment or discrimination on any of the grounds enumerated under the Code will not be tolerated by the University.

### **Accountability**

15. The Office of Human Rights and Equity Services is responsible for:
- Communication of this policy,
  - Administration of this policy and related procedures,
  - Interpretation of this policy, and
  - Advising the President that a formal review of this policy is required.
16. The Office of Human Rights and Equity Services reports directly to the Office of the President.

### **Review**

17. A formal policy review will be conducted every two (2) years. The next scheduled review date for this policy is July, 2008.

### **Effect on Previous Statements**

18. This Policy supersedes:
- All previous Board Policies and resolutions on the subject matter herein;
  - All previous Administrative Policies and directives on the subject matter contained herein; and
  - Brock University Sexual Harassment Policy and Procedures (1991).

### **RELATED POLICIES**

- AIDS Policy Document
- A Policy on the Accommodation of Persons with Disabilities in Employment Opportunities
- Code of Student Conduct and Disciplinary Procedures in Non-Academic Matters
- Employment Equity Policy
- Residence Community Guiding Principles
- Staff Grievance Procedure
- Collective Agreements

## **RESPECTFUL WORK AND LEARNING ENVIRONMENT PROCEDURES**

### **Confidentiality**

19. Confidentiality is critical in all procedures under this Policy. Because of the particular sensitivity of discrimination, harassment and 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 legal obligations require disclosure of information. Maintaining confidentiality benefits everyone involved in the complaint process. Those making complaints should not discuss the matter other than with the appropriate parties. Those involved in dealing with the complaints will make every effort to maintain confidentiality of information and will disclose only where absolutely necessary. Wherever possible, 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 or friends. Breaches of confidentiality may give rise to investigation under this policy and procedures and to disciplinary action.

20. 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.

### **Personal Safety**

21. Where there exists a clear, serious, and immediate threat to safety of an individual or the community, the University has a legal duty to warn any community members at risk. This may mean, for the purposes of safety, the procedures outlined in this policy, including confidentiality, will be set aside. In addition, action to address an urgent or emergency situation may be taken by Campus Security Services and/or senior administration under other policies or Codes of Conduct in order to protect the community from such a threat.

### **Standard of Proof**

22. The standard of proof to be applied in making formal decisions under this policy is based on a “balance of probabilities”, the same standard used in human rights inquiries and civil law matters.

### **Role of the Office of Human Rights and Equity Services**

23. Cases of discrimination, harassment and bullying are best addressed promptly and locally. For this reason, the University has created the Office of Human Rights and Equity Services. The staff of the Office of Human Rights and Equity Services act outside official reporting lines and treat all contacts with confidentiality (unless members of our community are at serious risk or legal obligations require disclosure of information). A contact with the Office of Human Rights and Equity Services need not lead to further action, but it is recommended that members of the Brock community seek their advice sooner rather than later if they suspect they are being subjected to discrimination, harassment and/or bullying, to prevent a situation from deteriorating. The role of the Office of Human Rights and Equity Services is to:

- Offer a “listening ear” to complainants,
- Offer support, guidance and advice to the complainant as to whether the alleged behaviour falls within this policy,
- Outline and advise the complainant on options for resolving the problem, including personal resolution, informal resolution using alternative dispute resolution measures, or pursuing more formal resolution,
- Assist the parties to informally resolve matters, as required,
- Appoint an investigation team, as required, and coordinate the investigation process in a consistent, timely and fair manner, although staff of the Office of Human Rights and Equity Services does not participate or influence the content and/or outcome of any investigation,
- Assist those with supervisory responsibilities in the resolution of human rights concerns,
- Make referrals to other University departments or outside organizations who can further support or assist the complainant in resolving the matter, and
- 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.

### **Personal Advisors**

24. Any person involved in the complaint process may seek assistance, support or representation from another person of her/his choice, such as a union observer/representative or student ombudsperson. The Office of Human Rights and Equity Services shall advise the parties about possible personal advisors available to them on campus.

Prior to the formal resolution stage, such personal advisors may participate in the process as observers and/or representatives; however, the actual parties to the process must be present and participate. When a personal advisor will attend and/or represent a party to a complaint, that party must advise the Office of Human Rights and Equity Services. Staff of the Office of Human Rights and Equity Services may not act as personal advisors.

25. Participation and/or representation by personal advisors at the formal resolution stage shall be determined by the procedures of the formal process used and are subject to provisions regarding representation as set out in applicable collective agreements and/or other university policies or codes of conduct.

### **Stages of Complaint**

26. The following process describes three stages: personal resolution, informal resolution and formal resolution. Action taken by a complainant, or that will be discussed with a complainant, will depend on the circumstances of the case. In all but the most serious cases, the University would hope that the matter could be resolved through the personal resolution or informal resolution stages. The aim is to arrive at a constructive and mutually acceptable outcome wherever possible.

27. All complaints must be initiated within six (6) months (120 working days) of the incident occurring. In extenuating circumstances a complaint filed beyond the six-month limitation may be considered at the sole discretion of the Office of Human Rights and Equity Services.

28. Any of the time frames for the steps outlined below may be extended upon mutual agreement of the parties. In extenuating circumstances, the Office of Human Rights and Equity Services may also extend a time frame. In all cases, the Office of Human Rights and Equity Services will advise the parties of the reason for and period of the extension.

29. A complainant has the right to withdraw a complaint at any stage in this process. The University may continue to act on the issue identified in the complaint in order to comply with its legal obligations.

### **Personal Resolution**

30. Any faculty member, staff member, student, course participant, volunteer or visitor who believes that she or he has experienced or witnessed discrimination, harassment and/or bullying should contact the Office of Human Rights and Equity Services for advice and assistance in resolving the matter.

31. Any faculty member, staff member, student, course participant, volunteer or visitor who believes that she or he has experienced or witnessed discrimination, harassment and/or bullying should take direct action, if possible, to make it clear to the person causing the offence that such behaviour is inappropriate, unacceptable, unwelcome and should not be repeated. A prior meeting with staff of the Office of Human Rights and Equity Services can help in preparing that person to address the other party, whether in person or in writing.

32. Any faculty member, staff member, student, course participant, volunteer or visitor who believes that she or he has experienced or witnessed discrimination, harassment and/or bullying should keep a personal record of the details of any alleged incidents of discrimination, harassment and/or bullying, including:

- Date and time
- Place
- Name and status of other person involved
- A specific account of what happened – be as detailed as possible
- The effect of the incident
- Names of any witnesses
- Action taken including any person to whom the incident has been reported and any attempts at personal resolution

It is important that such a record be kept for each incident and that it is made as soon after the event as possible. Where possible, any correspondence (letters, memos, notes, emails) relating to the incidents should also be kept. Such records should be brought to the Office of Human Rights and Equity Services when seeking advice and assistance in resolving the matter. Managers who witness or receive complaints of discrimination, harassment and/or bullying from faculty or staff should also keep a record of the alleged incident and forward that record to the Office of Human Rights and Equity Services. Staff from Campus Security Services and the Department of Residences who witness or receive complaints of discrimination, harassment and/or bullying from students should

also keep a record of the alleged incident and forward that record to the Office of Human Rights and Equity Services.

33. Where:

- an attempt at personal resolution does not succeed,
  - the behaviour continues,
  - the behaviour is of a more serious nature than can be dealt with by personal resolution, or
  - personal resolution is not appropriate to the specific case,
- then the faculty member, staff member or student should make a complaint to the Office of Human Rights and Equity Services. A complaint will then prompt attempts at informal resolution or formal resolution procedures, depending on the circumstances of the case.

34. The Office of Human Rights and Equity Services will document and retain all contacts as confidential documents.

### **Informal Resolution**

35. Informal resolution will attempt to be conciliatory rather than adversarial. It is important for both parties to retain their dignity, and for practical solutions to be found to enable the parties to continue to work and study together.

36. Where a complaint of discrimination, harassment, and/or bullying has been made, the Office of Human Rights and Equity Services will make contact with the respondent to discuss the complaint. If the respondent refuses to meet or fails to respond to the request for a meeting within ten (10) working days of the request, the Office of Human Rights and Equity Services will report the refusal or failure to the appropriate person for disciplinary action against the respondent.

37. In the first instance, the Office of Human Rights and Equity Services will explore the use of alternative dispute resolution with the parties to resolve the matter. Where the parties agree, the Office of Human Rights and Equity Services will work together with the parties to resolve the matter. Any information obtained during alternative dispute resolution or an attempted settlement arising from the process is without prejudice and will not be introduced automatically as evidence in any subsequent investigation or hearing. Staff of the Office of Human Rights and Equity Services participating in the alternative dispute resolution process cannot be compelled to provide evidence in any future or concurrent university proceeding regarding any information disclosed during the alternative dispute resolution process.

38. If an informal resolution, acceptable to both parties, is reached, then the Office of Human Rights and Equity Services will send written communication to both parties, setting out the understandings and/or agreement. Receipt of this written communication and confirmation in writing regarding the agreement must be acknowledged by both parties. The Office of Human Rights and Equity Services will then assist in bringing about whatever administrative or other action is needed to implement the resolution. Where a complaint is resolved informally, the Office of Human Rights and Equity Services will retain the complaint as a confidential document and no reference to its existence will be contained in either the complainant's or the respondent's official student or personnel file.

39. Informal resolution shall normally be completed within eight (8) weeks (40 working days) of the Office of Human Rights and Equity Services making contact with the respondent to discuss the matter.

40. Where:

- alternative dispute resolution measures do not succeed,
  - both parties are not willing to attempt informal resolution,
  - the behaviour continues,
  - the behaviour is of a more serious nature than can be dealt with by informal resolution, or
  - informal resolution is not appropriate to the specific case,
- then the matter will move to formal resolution procedures.

### **Formal Resolution**

41. Failing resolution of the matter through personal or informal resolution, the complainant shall submit a formal complaint in writing, requesting formal resolution, to the Office of Human Rights and Equity Services.



42. The decision on whether or not to proceed with formal resolution shall be made by the Office of Human Rights and Equity Services. On receiving a formal complaint, the Office of Human Rights and Equity Services will determine if:

- The University has jurisdiction,
- The allegations fall within the scope of this policy,
- The most recent alleged incident occurred within the past six (6) months (120 working days),
- There are any safety risks or health concerns that require immediate action.

43. If the Office of Human Rights and Equity Services decides not to proceed, the complainant shall be informed in writing and provided with information on her/his right to appeal this decision as outlined in this Policy.

44. If the Office of Human Rights and Equity Services decides to proceed, the respondent shall be notified within ten (10) working days of receipt of the formal complaint. The respondent shall be provided with details of the complaint and advised of the procedure to be followed in the resolution of the complaint.

45. The Office of Human Rights and Equity Services will advise both the complainant and the respondent of support services available which they may wish to consult.

46. Nothing in this procedure precludes senior administration from invoking an investigation in accordance with these procedures 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 this policy.

### **Interim Measures**

47. After a complaint is made, the Office of Human Rights and Equity Services, in consultation with the appropriate supervisory or academic personnel, will determine if any immediate action or interim measures are required to protect the University, its community or any of its members, and/or the integrity of the process. These measures may include limiting access to facilities, making arrangements for alternative grading or supervisory relationships, or discontinuing contact between the complainant and the respondent during the period of the proceedings. Interim measures, if required, are to be implemented by the appropriate University personnel. Both parties shall be notified of any interim measures required. Note that any interim measures are not intended as discipline or a transfer within the meaning of any collective agreement or policy. In addition, where a complaint proceeds to the formal resolution stage, interim measures may also be enacted as part of formal resolution processes under the procedures governing that process.

### **Resolution of Formal Complaints Against a Student**

48. Formal complaints against a student shall be dealt with as alleged breaches of residence and/or campus codes of conduct. As such, staff of the Office of Human Rights and Equity Services will refer the matter to Campus Security Services, Department of Residence, and/or the Student Conduct and Activities Officer, for investigation, adjudication and sanction, under the appropriate code of conduct. The Office of Human Rights and Equity Services shall play an advisory role in ensuring that the investigation and adjudication of complaints against students are handled in a manner consistent with the spirit and procedures within this policy.

### **Resolution of Formal Complaints Against a Faculty or Staff Member**

49. Formal complaints against faculty and staff shall be dealt with under this policy and in accordance with appropriate collective agreements and Department of Human Resources and Environment, Health and Safety policies.

### **Resolution of Formal Complaints Against Visitors, Volunteers or Course Participants on Campus**

50. Brock University recognizes that many individuals who are not faculty, staff or students, visit its premises for a variety of reasons. These individuals may include visitors, volunteers, or course participants, as defined in this policy.

51. As set out earlier, this policy applies to all persons visiting Brock University premises.

52. Where a formal complaint is made against a visitor, volunteer or course participant, the Office of Human Rights and Equity Services will consult with affected parties and relevant University staff, managers, and/or senior administration to determine whether that person should simply be removed from University campus or whether an investigation under this policy is appropriate. In determining how to act, the following factors will be considered:

- The severity and frequency of the actions complained about

- Any continuing threat or risk to the University community
- The person's reason for being on University premises and whether that person has any continuing need to be on University premises
- The person's response to the complaint and willingness to resolve the matter
- The University's duty to provide a safe and healthy work and learning environment for its faculty, staff and students, and its obligations under Human Rights, Employment and Health and Safety legislation.

53. Where an investigation is completed under this policy and the investigation team recommends sanctions, the Office of Human Rights and Equity Services, together with senior administration will ensure that those sanctions are carried out. Should the person refuse to participate in the investigation or resulting sanctions, or should the behaviour continue, the University retains its right to have that person removed from campus as part of its continuing duty to provide a safe and healthy work and learning environment for its faculty, staff and students.

### **Investigation Team**

54. To make sure that formal complaints can be dealt with in a fair, equitable and consistent manner, an investigation will take place by an internal investigation team. The investigation team will be comprised of three people who have been professionally trained to conduct an investigation according to these procedures. The University will establish a pool of internal investigators to participate in the resolution of complaints. The Office of Human Rights and Equity Services will seek volunteers and nominations on an annual basis from student, staff and faculty groups of the University. Volunteers and nominees will be short-listed and selected by a committee composed of the Vice President, Academic, the Vice President, Finance and Administration, the Associate Vice President, Student Services, the Executive Director of Human Resources and Environment, Health and Safety and a staff member from the Office of Human Rights and Equity Services. In addition, the number of investigators in the pool will be determined by the selection committee, but shall include a minimum of fifteen (15) potential investigators. A term within the investigation pool will be three years, renewable annually, and any individual may hold up to five consecutive terms. To avoid the potential for conflict of interest, the following persons are not eligible to be investigators under this policy:

- members of senior administration
- members of any union executive
- staff of the Office of Human Rights and Equity Services
- students who are part of the University Discipline Panel
- Student Ombudsperson

55. Those selected as investigators under this policy, together with any staff from Campus Security Services and the Department of Residences who are responsible for the investigation of discrimination, harassment and/or bullying, will receive training in how to conduct such investigations, as arranged by the Office of Human Rights and Equity Services and Human Resources and Environment, Health and Safety.

56. When a written formal complaint has been filed, the Office of Human Rights and Equity Services will establish an investigation team composed of three investigators from the pool and will notify the parties of the composition of the investigation team. Wherever possible, the make up of the investigation team shall include an investigator from the same stakeholder group as each of the parties (ie. where a complaint is made by a student against a faculty member, the investigation team would include a faculty investigator and a student investigator). Once an investigation team has been formed, the investigators will select a Chair and will disclose to one another any potential conflicts of interest that they have with any of the parties to the formal complaint. The investigation team, with assistance from the Office of Human Rights and Equity Services, will determine whether a declared potential conflict of interest will result in replacement of the member in question. The nature and circumstances of all declared potential conflicts of interest, together with the team's conclusions regarding the matter, will be noted in writing in any report created by the Chair concerning the formal complaint. Any party to a formal complaint may challenge the appointment of one or more investigators 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 and Equity Services, 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 final report of the investigation team.

57. The investigation team will attempt to make all decisions by complete agreement. Where this is not possible, the team will vote on the issue and abide by a majority decision.

## **Investigation Process**

58. The investigation team may decide to suspend any investigation in the event that the situation is appropriate for, and the parties mutually decide to attempt, alternative dispute resolution through the Office of Human Rights and Equity Services. Should alternative dispute resolution not be successful, the investigation team will restart the investigation.

59. The investigation team 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 investigation team will consider such factors as:

- The University's responsibility to provide an environment free from harassment and discrimination,
- 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 Ontario Human Rights Code),
- Other legal procedures that may be initiated to protect statutory rights, and
- The wishes of the parties.

60. Once the investigation team has been appointed, the Office of Human Rights and Equity Services will make all relevant documentation collected about the complaint available to the team. The Chair will then devise a written investigation plan under which it will interview the complainant, the respondent, and all witnesses whom the investigation team determines to have any information relevant to the complaint. In addition, the investigation team will list those persons who, although named as witnesses, in its view had no information bearing on the complaint or were not available for interview. If it appears to the team that other persons not named by the parties may have information related to the complaint, every effort should be made to interview those potential witnesses. It may also be necessary to re-interview the parties before issuing the draft report.

61. 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. If a party or witness declines to participate in an investigation, the investigation process will proceed to a conclusion and the investigation team will prepare a draft report. The investigation team will meet with each of the parties to review the draft report and to provide the parties with an opportunity to provide clarification or response. Once finalized, the report any resulting recommendations will be forwarded to the appropriate person(s) with supervisory responsibilities. In all circumstances, interviews with witnesses will occur after the complainant and the respondent have been given an opportunity to be interviewed.

## **Investigation Time Frame**

62. The investigation shall be completed within eight (8) weeks (40 working days). Time that elapses during the suspension of an investigation, as set out above, will not be included when calculating this time limitation. The results of the investigation shall be summarized in a report to the Office of Human Rights and Equity Services and shall include a determination as to whether this Policy has been breached and recommendations as to sanctions for the respondent. The Office of Human Rights and Equity Services will provide each party with a copy of the report.

## **Investigation Results and Reports**

63. Once the investigation is complete, the Chair of the investigation team will prepare a draft report that shall be reviewed with each of the parties detailing:

- Allegations giving rise to the formal complaint,
- Grounds in this policy that have allegedly been violated,
- Any responses of the respondent and complainant,
- Findings of fact,
- One of four recommendations:
  1. that the case be closed on the grounds of insufficient evidence of a breach of this policy,
  2. that a settlement be reached without the possibility of disciplinary action,
  3. that procedures be initiated that could result in disciplinary action against the respondent for breach of this policy,
  4. that procedures be initiated that could result in disciplinary action against the complainant on the grounds of frivolous, vexatious, malicious, or bad faith complaint.

The outcome of any subsequent process is independent of the recommendations of the investigation team.

64. The complainant and respondent have the right to comment in writing on the draft report before a final report is issued. Their written comments must be submitted to the investigation team within five (5) working days of the receipt of the draft report. Based on the results of the investigation and the responses to the draft report, the investigation team will prepare a final report. The final report will be submitted to the Office of Human Rights and Equity Services who will distribute it to the parties.

65. Where the final report recommends that disciplinary procedures be initiated against either party, the Office of Human Rights and Equity Services will forward a copy of the report to Human Resources and Environment, Health and Safety for disciplinary sanctions. Such sanctions will be imposed in accordance with any collective agreement pertaining to the respondent. Human Resources and Environment, Health and Safety will report back to the Office of Human Rights and Equity Services once disciplinary sanctions have been determined and applied. Human Resources and Environment, Health and Safety may include the final report and documentation regarding sanctions in the respondent's official personnel or student file, in accordance with existing policies, agreements or contracts with the various University groups.

66. Where the final report recommends settlement without disciplinary action, the Office of Human Rights and Equity Services will work with the parties to effect the terms of that settlement.

67. Where the final report finds no breach of this policy, the matter shall be considered resolved and no information shall be forwarded to Human Resources and Environment, Health and Safety or placed in the official personnel or student file of the respondent.

### **Complaints Against Staff of the Office of Human Rights and Equity Services**

68. Complaints brought against staff of the Office of Human Rights and Equity Services under this policy shall be brought to the Office of the President, who shall oversee the application of these procedures to the complaint. Where appropriate and the parties agree, an independent third party shall be appointed to attempt informal resolution between the parties. Where formal resolution procedures are required, the process for staff outlined in this procedure shall be used and the President shall take over the responsibilities normally taken by staff of the Office of Human Rights and Equity Services.

### **Bad Faith Allegations**

69. It is a violation of this policy for any person to:

- make a frivolous, vexatious, malicious or bad allegation,
- initiate a procedure under this policy in bad faith, or
- influence an ongoing procedure under this policy in bad faith.

A written complaint that a bad faith allegation or action has been made will be treated as a formal complaint under this policy. If such a complaint is substantiated, it will be subject to the same consequences as complaints of discrimination, harassment and/or bullying.

### **Reprisals**

70. It is a violation of this policy for any person to retaliate or take reprisals against individuals because they have participated in a process using this policy. Written allegations of retaliation or reprisals will be treated as a formal complaint under this policy. If such a complaint is substantiated, it will be subject to the same consequences as complaints of discrimination, harassment and/or bullying and may also be grounds for the use of interim measures as set out in these procedures.

### **Whistleblower Protection**

71. A member of the Brock community who comes forward in good faith with reports or concerns about compliance with University policies or procedures shall not be subject to reprisal or retaliation for making such a report. Any such reprisal or retaliation shall be considered harassment under this policy.

### **Appeal Procedures**

72. If, through Informal Measures and Formal Measures, the matter is not resolved to the satisfaction of the complainant or the respondent, either of them will have recourse to the grievance or appeal process for her/his constituency, as follows:

- The grievance procedure for faculty under the Collective Agreement between Brock University and the Brock University Faculty Association,
- The grievance procedures for unionized staff under their collective agreements,

- The Staff Grievance Procedure for non-unionized staff,
- The appeal procedures set out in the various codes of conduct for students.

These appeal procedures also apply for decisions of the Office of Human Rights and Equity Services in the administration of these procedures.

**Files of the Office of Human Rights and Equity Services**

73. After formal resolution of the complaint, the Office of Human Rights and Equity Services will retain the complaint and all supporting documentation, including the final report as a confidential document.

## RESPECTFUL WORK AND LEARNING ENVIRONMENT POLICY

### APPENDIX A

#### Human Rights Harassment

“Racial Harassment” is a form of Human Rights Harassment. It is any behaviour, deliberate or otherwise, relating to race, colour, ethnic or national origin, directed at an individual or group, which is found to be offensive or objectionable to the recipient and which creates an intimidating, hostile or offensive environment. Some examples include:

- physical assault or unwelcome physical contact
- verbal abuse, threats, derogatory name-calling, racist slurs, insults and/or jokes
- ridicule of an individual on racial or cultural grounds
- comments which imply that race impairs the person’s ability
- exclusion from normal workplace interactions or social events
- unfair allocation of work and/or responsibilities
- racist graffiti, insignia, objects or pictures or display and/or publication of racist material
- inciting others to commit any of the above (sections 318 and 319 of the Criminal Code of Canada explicitly prohibit acts inciting hatred or violence towards any group on the basis of race, colour, and ethnic origin)

“Harassment on the basis of Sexual Orientation and/or Gender Identity” is a form of Human Rights Harassment. It is any behaviour, deliberate or otherwise, relating to an individual’s sexual orientation and/or gender identity, or perceived orientation/identity, directed at an individual or group, which is found to be offensive or objectionable to the recipient and which creates an intimidating, hostile or offensive environment. This form of human rights harassment often stems from homophobia and heterosexism. Homophobia means harassing, prejudicial treatment of, or negative attitudes about, lesbian, gay, bisexual, trans-identified, transgendered, inter-sexed, two-spirited, or queer (LGBTQ) persons and those perceived to be of these sexual orientations or gender identities. Homophobia includes a range of feelings and behaviours from discomfort and fear to disgust, hatred and violence. Heterosexism is based on societal values that dictate that everyone is, or should be, heterosexual. Some examples of this form of harassment include:

- “gay-bashing” or physical violence, including sexual violence
- making derogatory comments, innuendos, insults, slurs, jokes or threats about sexual orientation or sexual practice, including voice mail, email, online chat or posted on a website
- silencing talk of sexual or gender diversity
- forcing people to “come out” or to “stay in the closet” (disclose or hide their sexual orientation)
- linking homosexuality with pedophilia (child abuse)
- accusing LGBTQ persons of “recruiting” others to join in their sexual orientation
- defacing notices, posters or property with homophobic graffiti
- removing or defacing notices, posters, postcards, or other property of the Positive Space Campaign or other awareness initiatives on campus
- rejecting or excluding individuals or groups because of their sexual orientation or gender identity
- treating the sexual orientations or gender identities of LGBTQ persons as less valid than those of heterosexuals
- behaving as though all LGBTQ people have AIDS or other sexually transmitted diseases or are responsible for the spread of them

“Harassment on the basis of Disability” is a form of Human Rights Harassment. It is any behaviour, deliberate or otherwise, relating to a person’s disability (as defined in the Ontario Human Rights Code), directed at an individual or group, which is found to be offensive or objectionable to the recipient and which creates an intimidating, hostile or offensive environment, except where bona fide and reasonable cause exists, or where it is based on bona fide and reasonable requirements or qualifications. Some examples include:

- offensive or demeaning remarks, jokes, innuendos or other types of verbal abuse about a person’s ability or disability, directed at an individual or group
- rejecting or excluding individuals or groups because of their disability
- teasing or pranks about a person’s disability
- hostility towards a person who is disabled
- using a person’s disability to demoralize, demean or deskill them
- failing to provide reasonable accommodation for an individual’s disability

- intentionally creating and/or using barriers to prevent participation of a person with a disability
- ridiculing a person for the effects that a disability, illness or medication to treat an disability or illness, have on that person's appearance and/or behaviour

## **Sexual Harassment**

"Sexual Harassment" can be psychological or physical and examples include, but are not restricted to:

- suggestive or demeaning remarks, jokes, innuendos or other types of verbal abuse of a sexual or sexist nature directed at an individual or group
- offensive or derogatory language alluding to a person's private life or sexual behaviour or orientation by innuendo, jokes, or remarks
- graphic or suggestive comments or taunting about an individual's appearance, characteristics, or clothing
- engaging in a course of vexatious comment or conduct of a sexual nature that is unwelcome
- pressing an individual to accept unwelcome invitations, including repeated telephone calls, letters, or emails
- compromising invitations and provocative suggestions
- unwanted requests for sexual favours
- leering, ogling, or other sexually oriented gestures
- deliberate physical contact to which the individual has not consented or had the opportunity to object to, unnecessary or inappropriate touching and/or offensive gestures
- sexual assault (an offence under section 271 of the Criminal Code of Canada)
- the production, display, or distribution of pornographic or other sexually offensive or derogatory pictures or material

It is recognized that both women and men can suffer sexual harassment and that sexual harassment can also occur between members of the same sex.

## **Personal Harassment, Psychological Harassment and Bullying**

"Personal Harassment" is deemed to include, but is not restricted to:

- repeated or continuous incidents of yelling, screaming or name-calling
- repeated or continuous threats to terminate employment or contracts for reasons unrelated to performance
- repeated or continuous threats to withdraw funding, scholarships or advancement opportunities for reasons unrelated to performance
- comments addressed to a person which have the effect of undermining a person's role in the workplace or classroom
- repeated remarks, gibes or insults in reference to personal traits or appearance
- invasion of privacy or practical jokes causing physical or mental distress
- pressure to become involved in anti-social or criminal behaviour
- messages to or about a person, including voice mail, email, online chat or posted on a website, that are offensive, insulting or cause discomfort
- posting or display of materials, photos, images, and/or graffiti, including by electronic means, which may cause humiliation, offence or embarrassment (except where such display is for academic purposes and is a legitimate exercise of academic freedom and expression in teaching and research)

"Psychological Harassment" is deemed to include, but is not restricted to:

- unreasonably questioning someone's abilities and skills, when not related to appropriate evaluation of performance
- insulting a person by use of degrading comments or obscenities
- unreasonably casting doubt on a person's decision making, when not related to appropriate evaluation of performance
- making a person perform useless, humiliating or demeaning tasks that are not reasonably expected to be part of that person's employment
- unreasonably ceasing to give a person work on an on-going basis
- excluding or isolating a person by making others avoid her/him
- ignoring a person in the workplace or classroom
- threatening or abusive language (oral or written, including voice mail, email, online chats and comments posted on websites)

- excessive criticism of a person's work or their private lives, when not related to appropriate evaluation of performance
- preventing a person from expressing herself/himself
- intrusion by pestering, spying or stalking

Personal or psychological harassment do not include:

- the legitimate (ie. not discriminatory, arbitrary or abusive) use of management rights in cases of promotion, demotion or suspension
- the legitimate right and responsibility of managers to conduct ongoing evaluation of employee performance, attendance or discipline at work, which may include reasonable negative and constructive criticism of performance and/or may result in reasonable changes to a person's job duties or responsibilities as a result of a poor evaluation
- the legitimate right of union members and officials to reasonably conduct grievance investigations, file grievances, conduct inspections, lawfully picket, negotiate with the University and, without limiting the aforementioned, generally conduct union business
- the legitimate right and responsibility of faculty and staff members to correct inappropriate student behaviour, insist on order in the classroom, and evict, as necessary, those who disrupt order in the classroom
- respectfully expressing disagreement or stating a contrary but reasonable point of view
- the legitimate (ie. not discriminatory, arbitrary or abusive) exercise of academic freedom, freedom of thought and inquiry, and expression in teaching and research which may result in respectful disagreements regarding beliefs or principles

"Bullying" is the misuse of power or position to persistently criticize and condemn; to openly humiliate and undermine an individual's ability until this person becomes so fearful that their confidence crumbles and they lose belief in themselves. These attacks on the individual are normally sudden, irrational, unpredictable and usually unfair. Bullying damages individuals' health and lives and also undermines productivity and effective work relationships. Bullying can occur when professional abrasiveness becomes tainted with personal vindictiveness – when criticism is destructive not constructive, is criticism of the person rather than her/his mistakes, publicly humiliates rather than privately corrects and results in a person feeling threatened or compromised. It is recognized that bullying can range from extreme and obvious behaviour to behaviour which is subtle and seemingly innocuous. Bullying is deemed to include, but is not restricted to:

- physically abusive or aggressive behaviour such as pushing, hitting, finger pointing or standing close to an individual in an aggressive manner
- verbally abusive behaviour such as yelling, insults, threats and name calling
- ostracism/exclusion, or conversely, excessive supervision
- undermining of the individual's position by changing work objectives/guidelines without consultation, setting unreasonable, unrealistic or impossible goals/targets, taking credit for the individual's work, deriding the individual's work to managers, or sabotaging the individual's work
- removing areas of responsibility, without justification, and giving people menial or trivial tasks to do instead
- unreasonable refusal to delegate authority and responsibility
- withholding information
- spreading malicious rumours or lies
- picking on people and unreasonably criticizing their performance
- 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

"Academic bullying" is a particular form of bullying that universities must guard against, and includes asserting a position of intellectual superiority in an aggressive, abusive or offensive manner, making threats of academic failure, or public sarcasm and humiliation.

Bullying does not include legitimate, constructive and fair criticism of a faculty member, staff member or student's performance/behaviour or the legitimate (ie. not discriminatory, arbitrary or abusive) 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.