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Discrimination and Harassment Complaint Procedure

Office of Administrative Responsibility:	Vice Provost and Dean of Students Vice-Provost & Associate Vice-President, Human Resources
Approver:	Vice-Provost and Associate Vice-President (Human Resources) Vice Provost and Dean of Students
Scope:	Compliance with this policy extends to members of the University community as well as third party contractors, visiting speakers and volunteers.

Purpose

This Procedure establishes general responsibilities related to **discrimination** and **harassment** and specific procedures which apply where a complaint of discrimination or harassment is brought against a faculty or staff member, student or post-doctoral fellow (PDF) at the University of Alberta. This procedure also provides guidance for any party involved in such a complaint.

Informal and formal resolution procedures will be applied according to the University of Alberta's negotiated investigative, disciplinary, or grievance procedures as contained in its agreements with the Association of Academic Staff at the University of Alberta (AASUA), the Non-Academic Staff Association (NASA), the *Code of Student Behaviour*, *Postdoctoral Fellows Dispute Resolution Procedure* and other applicable contracts or policies.

PROCEDURE

This procedure is guided by the principles of **natural justice** and by the principles that the parties involved in a complaint will act in good faith, that the confidentiality contemplated by resolution processes will be maintained and that no complainant or respondent will retaliate against the other party. Examples of retaliation include threats and intimidation.

In all cases, use of the procedures at the University does not preclude a report to the appropriate law enforcement agency, professional governing body, or pursuing any other civil or other remedy available at law.

RESPONSIBILITIES:

The following parties have specific responsibilities under this procedure.

President, Vice-Presidents, Deans, Directors and Chairs are responsible for:

- informing themselves and **members of the University community** for whom they are responsible of the provisions of the *Discrimination, Harassment and Duty to Accommodate Policy* and associated Procedures and supporting awareness about discrimination and harassment issues.
- participating in processes aimed at resolving complaints of discrimination and harassment and supporting the determined remedy as appropriate under agreed-upon terms.

The Office of Safe Disclosure and Human Rights (OSDHR) is responsible for:

- providing advice and information on policies and procedures relating to discrimination and harassment to complainants, respondents and members of the University community.

- providing advice and/or referral services (including, but not limited to AASUA, NASA, Office of the Student Ombuds (OSO), Sexual Assault Centre, Student Accessibility Services (SAS), Human Resource Services (HRS) and Organizational Health and Effectiveness (OHE)), or external resources including law enforcement and/or the Alberta Human Rights Commission) to any member of the University community who asks for help with a discrimination or harassment problem.
- developing and implementing an educational framework focused on preventing discrimination and harassment as well as informing or training members of the University community of the provisions of this Procedure. This includes providing guidance on creating a work, study and living environment that is supportive of human rights.
- monitoring, where possible, the resolution processes engaged under this Procedure to ensure they are fair and equitable for all, and expressing any concerns to the appropriate Vice-President.
- reporting directly to the Associate Vice-President (Audit and Analysis) and submitting an annual report to General Faculties Council and to the Board of Governors.

INFORMAL RESOLUTION

The informal resolution processes referred to above allow the participants a greater measure of control in the process and in the outcomes than is afforded by formal resolution processes. Depending on the nature of a specific case, informal procedures may not be an appropriate option for parties to pursue. Resolution resulting from an informal process may take many forms but the following aspects of the outcome of the process are consistent:

- a. all parties agree to the resolution;
 - b. the resolution is documented in writing; AND
 - c. the parties take ownership for the resolution and self-enforce the agreement. The following list of resources may provide assistance with informal resolution of a discrimination or harassment complaint.
- The Office of Safe Disclosure and Human Rights
 - Office of the Student Ombuds (OSO)
 - Faculty and Staff Relations
 - Human Resource Services
 - A department Chair or associate Chair, or other official in a department or a Dean or Associate Dean, in the case of a Faculty without department Chairs
 - Graduate Student Assistance Program
 - University Health Centre
 - Counseling and Clinical Services
 - Sexual Assault Centre
 - University of Alberta Protective Services
 - Student Success Centre
 - Student Accessibility Services
 - International Student Services
 - Student Legal Services
 - Aboriginal Student Services Centre
 - Chaplains' Association
 - Association of Academic Staff University of Alberta (AASUA)
 - Non-Academic Staff Association (NASA)

FORMAL RESOLUTION

Any party may choose to engage a formal resolution process for a discrimination or harassment complaint at any time without repercussion. Under no circumstances will the lack of willingness to engage in an informal process or failure to reach an informal agreement be held against any party in a formal resolution. A formal resolution process may also be engaged when a resolution reached through an informal process fails.

ALLEGATIONS AGAINST FACULTY AND STAFF
1. ALLEGATIONS AGAINST SUPPORT STAFF

- a. Resolution procedures for support staff complaints, where the **complainant** and/or the **respondent** is a NASA members, are found in Article 18 “*Discrimination and Harassment Complaints*” of the Common Provisions of the NASA Collective Agreement.

2. ALLEGATIONS AGAINST ACADEMIC STAFF

- a. Resolution procedures for academic staff complaints, where the respondent is an AASUA member, are found in Article 16 “*Discipline*” of the AASUA Faculty Agreement, the Administrative and Professional Officer Agreement, the Faculty Service Officer Agreement, the Librarian Agreement, and in Article 13 “*Discipline*” of the Sessional and Other Temporary Staff Agreement, Article 14 of the Contract Academic: Teaching Staff Agreement and Article 16 of the Trust/Research Academic Staff Agreement

3. ALLEGATIONS AGAINST STUDENTS

- a. Resolution procedures for complaints of discrimination or harassment against a student at the University of Alberta, whether that complaint is raised by another student or by any member of the University community, are found in the *Code of Student Behaviour*.
- b. Resolution procedures for complaints against an academically employed graduate student acting in that capacity, are found in the provisions of the Graduate Student Assistantship Collective Agreement.

For further information on both the informal and formal resolution processes, refer to the Discrimination and Harassment Complaint Guideline for Students.

4. ALLEGATIONS AGAINST POSTDOCTORAL FELLOWS (PDFs)

- a. Resolution procedures for complaints against postdoctoral fellows are found in the *Postdoctoral Fellows Discipline Procedure*.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. [▲Top]	
Members of the University Community	All employees, (including but not limited to, academic staff, support staff and administrators), adjunct professors, professors emeriti, lecturers, clinical staff, all students (including undergraduate students and graduate students), members of the Board of Governors and post-doctoral fellows.
Discrimination	A distinction, whether or not intentional, based on a characteristic or perceived characteristic referenced in the Protected Grounds that has the effect of imposing on an individual or group of individuals burdens, obligations or disadvantages that are not imposed on others, or of withholding or limiting access to opportunities, benefits and advantages available to other individuals in society.
Harassment	Conduct or comment, either one-time or repeated that: <ol style="list-style-type: none"> a) is demeaning, intimidating, threatening, or abusive; and b) is not trivial or fleeting in nature; and c) causes offence and should have reasonably been expected to offend; and d) serves no legitimate purpose for the work, study or living environment, and e) undermines authority or respect in the work, study or living environment, or impairs work or learning performance, or limits opportunities for advancement or the pursuit of education or research, or creates an intimidating, hostile or offensive work or learning environment.

	<p>Harassment includes <u>bullying</u>, which is a form of aggression that may include physical, verbal, or emotional abuse. Bullying poisons the work, study or living environment of the person it targets. It can include persistent, offensive, abusive, intimidating or insulting behavior, abuse of power, and/or unfair sanctions which make the individual feel threatened, humiliated, and/or vulnerable.</p> <p><u>Sexual Harassment</u> may be broadly defined as unwelcome conduct or comment of a sexual nature which detrimentally affects the work, study or living environment or otherwise leads to adverse consequences for the target of the harassment.</p> <p>It may consist of unwanted sexual attention, sexually oriented remarks or behaviours, or the creation of a negative psychological and emotional environment based on gender, gender identity or sexual orientation. It may be an isolated act or repetitive conduct, but cannot be trifling. A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance may also constitute sexual harassment.</p> <p>The person(s) engaged in harassment need not have the intention to harass; it is the objective assessment of the circumstances that matters. How would a reasonable observer perceive the situation? A complainant need not expressly object to unwelcome conduct or comments, although any clear indication that the behaviour is unwanted will satisfy the test. A complainant's apparent passivity or failure to object overtly to sexual advances does not necessarily signal consent or welcomed behaviour, especially where a power imbalance exists between the individuals.</p> <p><u>Racial Harassment</u> involves unwanted or unwelcome comments, conduct or behavior that humiliates, intimidates, excludes or isolates an individual or group by focusing on their race, ethnicity, origin or religion. Overall, racial harassment undermines self-esteem and is a violation of the dignity and security of the individual or group(s) that it targets.</p>
Natural Justice	<p>The University of Alberta strives to ensure that the principles of natural justice, as summarized below, apply to the adjudication of disputes between persons or organizations. For a full outline of the principles and how they are applied, employees should consult their applicable collective or academic staff agreement and students should consult the <i>Code of Student Behaviour</i>.</p> <p>The principles of natural justice include:</p> <ol style="list-style-type: none"> a) members of the University are entitled to representation by the Association to which they belong (AAS:UA, NASA, GSA, SU) or, in the case of students, to receive advice from the Office of the Student Ombuds (OSO), Student Legal Services or other student advisors during any stage of the process, b) respondents have the right to know the identity of the complainant and details of a complaint, c) investigations will normally be completed in a timely manner, d) complainants, respondents and witnesses will have protection from reprisals, e) complainants and respondents will have the opportunity to present information in support of their positions and to defend themselves against allegations, and f) complainants and respondents have the right to receive clarification of the investigator's findings, if needed.

	Unless otherwise noted in the applicable collective or academic staff agreement or the <i>Code of Student Behaviour</i> , this policy does not confer any rights upon complainants or respondents to examine or cross-examine witnesses.
Complainant	<ul style="list-style-type: none"> a. A person who believes they or another person have experienced discrimination or harassment and initiates a complaint, or b. The Union or the Employer when making a complaint under Article 18 of the NASA agreement
Respondent	<ul style="list-style-type: none"> a. A person who has been accused of discrimination or harassment by a complainant, or b. The Union or the Employer under Article 18 of the NASA agreement

RELATED LINKS

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[NASA Collective Agreement \(University of Alberta\)](#)

[Faculty Agreement \(University of Alberta\)](#)

[Administrative and Professional Officer Agreement \(University of Alberta\)](#)

[Faculty Service Officer Agreement \(University of Alberta\)](#)

[Librarian Agreement \(University of Alberta\)](#)

[Graduate Student Assistantship Collective Agreement \(University of Alberta\)](#)

[Academic Teaching Staff Agreement \(University of Alberta\)](#)

[Temporary Administrative and Professional Staff Agreement \(University of Alberta\)](#)

[Trust/Research Academic Staff Agreement \(University of Alberta\)](#)

[Code of Student Behaviour \(University of Alberta\)](#)