Discrimination and Harassment – Allegations Against Staff Procedure

Office of Administrative Responsibility: Vice-Provost and Dean of Students
Vice-Provost and Associate Vice-President (Human Resources)

Approver: Vice-Provost and Associate Vice-President (Human Resources)

Scope: Compliance with this University procedure extends to all members of the University community.

Purpose

This procedure applies in cases in which a complaint of discrimination or harassment is brought against a faculty or staff member at the University of Alberta. This procedure also provides guidance for any party involved in such a complaint. The procedure for cases in which a complaint of discrimination or harassment is brought against a student can be found in the Discrimination and Harassment – Allegations Against Students Procedure.

Informal resolution and formal resolution procedures for complaints of discrimination and harassment are described in order to ensure an established process for the management and resolution of complaints.

Informal resolution 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 and any applicable contracts.

This procedure is guided by the principles of natural justice and by the principles that all parties will act in good faith, that the confidentiality contemplated by the process will be maintained and that no complainant or respondent will coerce another party. Examples of coercive behavior include threats and intimidation.

PROCEDURE

1. SUPPORT STAFF COMPLAINTS
   a. Resolution procedures for support staff complaints, where the complainant and the respondent are both NASA members, are found in Article 18 “Discrimination and Harassment Complaints” of the Common Provisions of the NASA Collective Agreement.

2. ACADEMIC STAFF COMPLAINTS
   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. STUDENT COMPLAINTS

a. When the complainant is a student and the respondent is an AASUA or a NASA member, resolution procedures 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, Article 16 of the Trust/Research Academic Staff Agreement, and Article 18 “Discrimination and Harassment Complaints” of the NASA Collective Agreement.

b. When the complainant and respondent are both students, refer to the Discrimination and Harassment – Allegations Against Students Procedure.

c. When the complainant is an AASUA or NASA member and a student is the respondent, the Code of Student Behaviour will apply.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. [▲Top]

<table>
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<th>Members of the University Community</th>
<th>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) and post-doctoral fellows.</th>
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<td>Discrimination</td>
<td>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.</td>
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| Harassment                        | Conduct or comment, either one-time or repeated that:  
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.  

Harassment includes bullying, which is a form of aggression that may include physical, verbal, or emotional abuse. Bullying poisons the living, working or studying environment of the person it targets. It can include persistent, offensive, abusive, intimidating or insulting behavior, abuse of power, and/or unfair punitive sanctions which make the individual feel threatened, humiliated, and/or vulnerable.

Sexual Harassment 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. 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.

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.

**Racial Harassment** involves unwanted or unwelcome comments, conduct or behavior that humiliates, intimidates, excludes and 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.

**Informal Resolution**
Those resolutions that achieve remedies agreeable to respondents and complainants, but do not invoke formal resolution procedures. Informal resolutions involve the relevant parties and many include coaching, counseling, supporting, mediating or otherwise facilitating the resolution of the complaint.

**Formal Resolution**
Resolutions effected through procedures described in the disciplinary clauses or grievance procedures of the University’s academic staff agreements or collective agreement or with AASUA and NASA, in the Code of Student Behaviour, in the Postdoctoral Fellows Policy, or in other procedures linked to the Discrimination, Harassment and Duty to Accommodate Policy.

**Natural Justice**
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 Code of Student Behaviour.

The principles of natural justice include:

- 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, by the Student OmbudService, 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 Code of Student Behaviour, this policy does not confer any rights upon complainants or respondents to examine or cross-examine witnesses.

Complainant

a. A person who believes they have been a victim of 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

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.

FORMS

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No Forms for this Procedure

RELATED LINKS

Should a link fail, please contact uappol@ualberta.ca. [▲Top]

- 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)
- Sessional Agreement (University of Alberta)