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Discrimination & Harassment Policy

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## SECTION I: INTRODUCTION

### PREAMBLE

1. All members of the University Community (“Community Members” see clause 5 below) have a right to study, work, and live in an environment that is free of Discrimination and Harassment.
2. The purpose of this Policy is to:
  - a) articulate McMaster University’s commitment to Discrimination and Harassment prevention and response;
  - b) identify services and resources related to **Discrimination and Harassment** that are available to all members of the McMaster University Community (“University Community”); and
  - c) explain the complaint and reporting options, supports, and accommodations that are available to all members of the University Community who experience Discrimination and/or Harassment.

### SCOPE

3. This Policy prohibits Discrimination and/or Harassment on the grounds articulated in the [Ontario Human Rights Code](#): age; ancestry, colour, race; citizenship; [ethnic origin](#); place of origin; [creed](#); [disability](#); family status; marital status (including single status); gender identity, gender expression; receipt of public assistance (in housing only); record of offences (in employment only); sex (including pregnancy and breastfeeding); and sexual orientation.
4. This Policy prohibits Harassment which is a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Harassment may include Sexual and/or Gender-Based Harassment, Workplace Sexual Harassment, as well as Harassment on any one or more of the grounds articulated in the Human Rights Code.
5. This Policy expressly prohibits any discriminatory or harassing action and/or conduct, verbal or non-verbal, directed at or about one or more individuals or groups, that creates a [poisoned environment](#) which interferes with academic or work performance, in a manner that exceeds academic freedom.
6. The Policy applies to:
  - a) **all Members of the University Community** (“Community Members”) include: students (graduate, undergraduate, and continuing education), staff, faculty, medical residents, volunteers, visitors (including visiting professors), and institutional administrators and officials representing McMaster University; and
  - b) **all University-related activities**, which are activities ([authorized](#) and [non-authorized](#)) where there is a clear nexus to the working or learning environment at the University (on and off University premises).
7. When allegations of Sexual Harassment are to be processed under the [Sexual Violence Policy](#), there may be circumstances where the allegations in a Complaint necessitate following the procedures under both this Policy and the *Sexual Violence Policy*.
8. Where a Complaint is filed that involves behaviour prohibited by this Policy, as well as behaviour more appropriately dealt with under the *Sexual Violence Policy*, the Complaint may be processed under the *Sexual Violence Policy*. However, any proceedings related to the Complaint will determine if there has

been a violation of the *Sexual Violence Policy*, in addition to any findings related to this Policy. The decision regarding which policy or policies are most appropriate will be made by the University.

9. Unless otherwise specified in this Policy, the Policy and its provisions apply where the University has the [jurisdiction](#) to pursue, adjudicate, or take steps to safeguard the University community.

## MCMASTER'S COMMITMENT

10. The University upholds a fundamental commitment to freedom of expression and association for all its members and to academic freedom for faculty. In exercising those freedoms, all its members are required to respect the rights and freedoms of others, including the right to freedom from Discrimination and Harassment.
11. The University recognizes that supporting an environment free of Discrimination and Harassment is important for the well-being and dignity of individuals as well as for the overall climate and welfare of the University community. Accordingly, the University is committed to providing the policies, resources, and organizational structures required to support an environment free from Discrimination and Harassment.
12. As part of this commitment the University provides a range of educational and community-building activities that foster understanding of human rights issues and of the harm incurred by their violation and communicate the expectation of and support for a work, study and living environment free from Discrimination and Harassment.
13. When a University complaint process is initiated, the University is committed to providing an intake, investigation, and adjudication process that is timely and follows the principles of procedural fairness.
14. The University has a legal and ethical responsibility to address [Complaints](#) of Discrimination and Harassment, to enable accessible processes for resolution, and to provide support to all Community Members involved in such processes. The Administration may also respond when it is identified that there is [Systemic Discrimination](#) and/or Harassment that needs to be addressed.

## POLICY REVIEW

15. The Policy will be reviewed annually for compliance with the *Occupational Health and Safety Act*.
16. For all other purposes, the Policy be reviewed every three years at the same time as the [Sexual Violence Policy](#).

## TERMS AND DEFINITIONS

17. A full glossary of terms and definitions may be found in [Appendix A](#).
18. For the purpose of interpreting this document:
  - a) words in the singular may include the plural and words in the plural may include the singular;
  - b) Directors, members of the Administration, and Decision-Makers in this Policy may, where appropriate, delegate their authority;
  - c) **AVP Equity and Inclusion** means the Associate Vice-President, Equity and Inclusion;

- d) **Chief Human Resources Officer** means the Assistant Vice-President & Chief Human Resources Officer;
- e) **Dean of Students** means the Associate Vice-President (Students and Learning) and Dean of Students;
- f) **Director (ELR)** means the Executive Director, Employee & Labour Relations;
- g) **Director (HRDR)** means the Director, Human Rights & Dispute Resolution Program;
- h) **Director (SVPRO)** means the Director, Sexual Violence Prevention and Response Office;
- i) **Director (SSCM)** means the Director, Student Support & Case Management Office;
- j) **Hearing Procedures** means the Hearing Procedures for the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence;
- k) **Provost** means the Provost and Vice-President (Academic);
- l) **Tenure and Promotion Policy** means the McMaster University Revised Policy and Regulations with Respect to Academic Appointment, Tenure and Promotion; and
- m) **Security Services** means Security and Parking Services.

## SECTION II: OPTIONS

### OPTIONS

19. Community Members who believe there has been a violation of the Policy have a number of options available to them: **Dispute Resolution**, **Reporting** (under the Policy and includes filing a Complaint, and/or Voluntary Resolution), making a **Criminal Report**, or **Other External Options**.
20. Prior to pursuing one of the options below, [Community Members](#) should read [Section III: Confidentiality](#). It is important to be aware that, **depending on the circumstances and nature of the incident disclosed**, the University may be obliged to:
  - a) conduct a triage of violence risk;
  - b) initiate a University-led investigation of the incident regardless of whether or not the individual making the disclosure chooses to participate in the process; and/or
  - c) notify Hamilton Police Services of the allegation and name of the individual who is the subject of the allegation and/or contact other relevant agencies to fulfill legal obligations.
21. Community Members who have experienced unwelcome comment or conduct by another person are encouraged, although not obliged, to make it known to the other person that their behaviour is unwelcome. In situations where it is believed that addressing the other person could lead to an escalation of the comment or conduct, or to safety risks, this approach is not recommended. If the problem is not resolved, or if the Community Member feels they cannot speak directly to the other person, they should notify an appropriate [Supervisor](#) within the University of the matter.

### DISPUTE RESOLUTION

22. Individuals may inform/seek assistance from their [Supervisor](#) (or person who has formal oversight of their area), or from an [Intake Office](#), to help address the situation.
23. Options for dispute resolution may include some fact-finding discussion, clarification of the issues, facilitated conversations, coaching, reconciliation, workplace restoration, settlement conferences, restoration processes, and mediation.

### REPORTING

24. A Report occurs when an individual determines that they wish to pursue an official Complaint through one or more of the following avenues: a Complaint to the University under this Policy, Voluntary Resolution under this Policy, a Criminal Report through the justice system, or other reporting options external to this Policy. Reporting options are not mutually exclusive.
25. Individuals who file a Report may ultimately be required to attend/participate in a hearing, either internal to the University, or external through arbitration, or criminal court, etc.
26. Community Members may choose to contact any one of the **Intake Offices** to make a [Complaint](#) pursuant to the Policy.

### Complaint

27. A Complaint is made when an individual submits an Incident Report to their Supervisor, or a written **statement of [Complaint to an Intake Office](#)**, making an allegation of Discrimination and/or Harassment because they wish to initiate a formal University process, which may require an investigation into the allegations and finding of facts.

### Voluntary Resolution

28. In certain circumstances, a Complainant and Respondent may be interested in attempting a resolution of a Complaint at any time before the completion of an Investigation.
29. The following conditions must be present before considering if Voluntary Resolution is a viable option:
- a) the University is able to meet its responsibilities pursuant to the *Occupational Health & Safety Act*; and
  - b) the Complainant and the Respondent both agree to:
    - (i) attempt to reach a resolution in good faith;
    - (ii) the methods to be used to seek resolution; and
    - (iii) the terms of what would constitute resolution.
30. A meeting between the Complainant and the Respondent will **not** be a requirement for Voluntary Resolution.
31. A Voluntary Resolution may be facilitated by an [Intake Office](#), and the methods may include fact-finding discussions, clarification of the issues, facilitated conversations, mediation, coaching, voluntary no contact agreements, reconciliation, restoration processes, workplace restoration processes.

### CRIMINAL REPORT

32. A Criminal Report is made when an individual files a report of an incident with a police service or with [Security Services](#). Filing a Criminal Report with Security Services will result in a report to [Hamilton Police Service](#).

### OTHER EXTERNAL OPTIONS

33. Individuals may exercise other University options external to this Policy (e.g. the grievance provisions of applicable collective agreements, or other options external to the University (e.g. through civil litigation or *Ontario Human Rights Code* provisions).



OPTIONS CHART

**Complaint Intake Offices**

[Human Rights & Dispute Resolution Program](#), Equity and Inclusion Office (All Community Members)

[Student Support & Case Management Office \(SSCM\)](#), Student Affairs (Students)

[Employee and Labour Relations \(ELR\)](#), Human Resources Services (Faculty and Staff members)

[Faculty of Health Sciences \(FHS\) Professionalism Office](#) (FHS Community Members)

**DISPUTE RESOLUTION**

Individuals may seek assistance from their Supervisor (or person who has formal oversight of their area) or from an Intake Office to help address the situation.

**COMPLAINT**

A Complaint can be initiated through completion of an Incident Report submitted to a Supervisor, or through submitting a written Complaint through one of the Intake Offices (listed above) making an allegation of Discrimination and/or Harassment because they wish to initiate a University process, which may require an investigation and finding of facts.

**CRIMINAL REPORT**

When an individual files a criminal report with a police service or with [Security Services](#). Filing a criminal report with Security Services will result in a report to Hamilton Police Services.

**VOLUNTARY RESOLUTION**

Attempting a resolution of a Complaint at any time *before* the completion of an Investigation.

**OTHER EXTERNAL OPTIONS**

Options external to the University (e.g. civil litigation or Ontario Human Rights Code provisions) or other options external to this Policy (e.g. grievance provisions of applicable collective agreements)

## SECTION III: CONFIDENTIALITY

### CONFIDENTIALITY (LIMITATIONS)

34. The University recognizes the importance of confidentiality both for individuals coming forward to seek Dispute Resolution, or Report an experience of Discrimination and/or Harassment, and for individuals who are the subject of a Complaint, and will take steps to protect the confidentiality of both parties to the extent permitted by its legal obligations outlined below.
35. The University and its employees and agents will protect personal information and handle records in accordance with the *Freedom of Information and Protection of Privacy Act* and the *Personal Health Information Protection Act*, where applicable in the circumstances, with the provisions of applicable collective agreements and, in the case of health care providers, in keeping with any professional obligations.
36. When making a Report to any University office individuals shall receive clear and transparent information about the level of, and limits to, confidentiality that apply.
37. Individuals may speak in confidence to an Intake Coordinator, subject to the provisions of this section and the limitations below. The University will share identifying information only in circumstances where it is necessary in order to administer this Policy, to address safety concerns, or to satisfy a legal reporting requirement. In such circumstances, the minimum amount of information needed to allow such concerns to be addressed, or to meet such requirements, will be disclosed. Such circumstances include those where:
  - a) an individual is at risk of harm to self;
  - b) an individual is at risk of harming others;
  - c) there are reasonable grounds to be concerned about risk of future violence or the safety of the University and/or broader community;
  - d) disclosure is required by law, for instance, suspected abuse of someone under the age of 16, reports of intimate partner/domestic violence or to comply with the *Occupational Health and Safety Act*, the *Workplace Safety and Insurance Act*, or with human rights legislation; and/or
  - e) to comply with the reporting requirements of regulatory bodies and/or professional licensing bodies.
38. Where there are reasonable grounds to be concerned about risk of future violence or the safety of the broader community or the public, or where the University is otherwise obligated to do so, the University may report the incident to Hamilton Police Services. In these situations:
  - a) the relevant Decision-Maker will be responsible for making the decision to disclose information to Hamilton Police Services;
  - b) the name of the Respondent, if known, will be shared; and
  - c) the name of the Complainant will not be shared without their consent, unless doing so would address a reporting obligation or mitigate a safety risk.
39. Some offices and Community Members have additional limitations to confidentiality because of their particular reporting requirements or professional obligations. For example:
  - a) those faculty and staff etc. who are regulated health care providers (such as those in the Student Wellness Centre) are required to maintain the confidentiality of patient information disclosed during a

medical interaction. These health care providers are not permitted to share information except in very limited circumstances, such as with the express permission of the patient, or if the health care provider believes that disclosure is necessary to eliminate or reduce a significant risk of serious harm to a person or group of persons, in accordance with their professional obligations; and

- b) Special Constables in Security Services are required to investigate reports of abuse of someone under the age of 16 and reports of intimate partner/domestic violence and to lay charges in all cases when there are reasonable grounds to believe a criminal offence has been committed, regardless of whether the target of the violence wishes to have further involvement with the legal process.
40. As part of the University's internal responsibility to maintain an environment free from Discrimination and Harassment, information shall be shared on a need-to-know basis.
  41. Procedural limits to confidentiality may also occur if the University is subject to legal proceedings that, in the opinion of the Provost or the Vice-President (Administration), require the disclosure of information.
  42. The importance of preserving the confidentiality of Complaints and any related proceedings will be explained to all parties as a necessary measure to protect the integrity of the proceedings.

## SECTION IV: PROCEDURAL GUIDELINES

### ADVISOR / SUPPORT PERSON

43. An Individual who is a party to a Complaint may be accompanied by an Advisor or Support Person, or legal counsel at any stage of any of the procedures outlined in this Policy. Any costs of any accompaniment are to be borne by the party.

### TIME LIMITATIONS FOR BRINGING FORWARD A COMPLAINT

44. Individuals are encouraged to report a Complaint at the earliest opportunity but **must do so within one year** of the date on which the incident of Discrimination and/or Harassment is alleged to have occurred. If there was a series of incidents it **must** be reported within one year of the date of the last event. However, if the Response Team is satisfied there are compelling reasons and/or extenuating circumstances, or where a Complainant engages this Policy and the [Sexual Violence Policy](#) and the allegations cannot be separated from one another, Complaints may be pursued outside of this timeframe. When the Complainant is no longer a [Community Member](#), the Response Team will review the Complaint and determine whether it is within the scope of the Policy and may decide to initiate a University Investigation.

### REPRISAL

45. The University prohibits reprisal or threats of reprisal against any person who, sincerely and in good faith, makes use of this Policy or participates in any process held under its jurisdiction. Any individual who is concerned that they are the subject of reprisals or threats should report their concerns to an Intake Office. Where appropriate, sanctions under the relevant policy (including this Policy, [Sexual Violence Policy](#), and/or the [Code of Student Rights and Responsibilities](#)) legislation or contract, may be applied against the individual(s) responsible for the reprisal.

### INTERIM MEASURES AND ONGOING SUPPORT OF ALL PARTIES

46. At any stage in the proceedings under this Policy it may be necessary to take Interim Measures in order to safeguard the environment of Community Members who are involved or may be affected. Interim Measures shall not be construed as evidence of either guilt or a finding of violation of this Policy, or as an affirmation of innocence/finding of non-violation of this Policy.
47. The authority to approve Interim Measures will rest with the relevant [Decision-Maker](#) in line with the Respondent's reporting structure.
48. Interim Measures will be reviewed on an ongoing basis by the Director of the appropriate Intake Office throughout the process to ensure the measures remain necessary and appropriate in the circumstances. Interim Measures are temporary and do not extend beyond the final resolution of a Complaint.
49. Interim Measures may include, but are not limited to, the rearrangement of academic/employment responsibilities or oversight, an administrative leave of absence, the rearrangement of residence location (where possible), adjustments in University activities (e.g. attendance at guest lectures, social events), implementation of a no contact order, or implementation of a [persona non grata](#) declaration.
50. In the event an [Employee](#) is directed to take an administrative leave as an Interim Measure, the conditions of the administrative leave shall accord with the terms of any applicable collective agreement. In the absence of

an applicable collective agreement, (e.g. where the employee is faculty or The Management Group (TMG)) the leave shall be without loss of pay or benefits. It is understood that an administrative leave as an Interim measure is non-disciplinary and is designed to separate a person from a situation or another person until the matter has been resolved. During such period, the person can continue to access relevant University [Support Services](#).

51. Should an Investigation extend beyond six months, there will be a full review by the Response Team in consultation with the Decision-Maker to assess progress, considering fairness to all parties, thoroughness, timeliness, and confidentiality, and to consider any necessary next steps.

## DATA GATHERING & RECORD KEEPING

52. The Equity and Inclusion Office is responsible for collecting and reporting annual anonymized, aggregate data on Consultations, Complaints, Dispute Resolution, Investigations, and all Outcomes and Sanctions, to the Senate and the Board of Governors.
53. Data for the annual report is collected and maintained by the Equity and Inclusion Office and includes data provided to that office by Employee & Labour Relations, the Student Support & Case Management Office, the Faculty of Health Sciences Professionalism Office, and Security Services. The purpose of the annual report is to inform education and training initiatives.
54. In developing the annual report, the utmost care will be taken to ensure that individuals' identities remain confidential and that data gathering does not discourage individuals who wish to disclose from coming forward.
55. All notes, materials, investigation reports, and decisions, pertaining to Complaints will be kept by the relevant Intake Office for seven years. These records may be retained longer, subject to the discretion of the appropriate Director.

## SECTION V: ROLES AND RESPONSIBILITIES

### SENIOR ADMINISTRATION

56. The Senior Administration has overarching responsibility for maintaining a University environment in which Discrimination and Harassment are unacceptable, for providing the resources required to support such an environment, and for ensuring the timely development and review of relevant policies through Senate and Board of Governors procedures.
57. In addition, the Senior Administration is responsible for enabling Community Members to function with the highest standards of integrity, accountability, and responsibility. Activities may include disseminating information about the University's expectations and providing education to all Community Members on issues related to Discrimination and Harassment.

### ASSOCIATE VICE-PRESIDENT, EQUITY AND INCLUSION

58. The AVP Equity and Inclusion oversees the Equity and Inclusion Office, which houses the Human Rights and Dispute Resolution Program.

### DIRECTOR, HUMAN RIGHTS & DISPUTE RESOLUTION

59. The Director (HRDR) is responsible for working in close partnership with individuals and offices involved in administering this Policy, as may be appropriate, including but not limited to: the Response Team, Investigators, Intake Offices, Decision-Makers, Senior Administrators, the University Secretariat, and University Counsel, to ensure the effective administration of this Policy and the *Sexual Violence Policy*.
60. The Director (HRDR) is responsible for providing guidance to Community Members who consult on requests for dispute resolution that they have received, providing information on how to support the individual and facilitate a referral, and assessing whether the limits of confidentiality apply.

### EQUITY AND INCLUSION OFFICE

61. Prevention through education is a fundamental aspect of the University's commitment to addressing Discrimination and Harassment. The Equity and Inclusion Office, with the support of the Senior Administration, is responsible for coordinating the University's proactive educational and training initiatives and programs, which include:
  - a) educational initiatives for the campus community on issues related to discrimination and/or harassment; and
  - b) training initiatives for frontline campus community and student-facing service providers, and for those with particular responsibilities related to this Policy.
62. The Equity and Inclusion Office is also responsible for promoting the Health & Safety Training Program's *Violence & Harassment Prevention* training, that is coordinated by Environmental & Occupational Health Support Services, as well as other relevant training programs designed and delivered by campus partners.
63. The University Secretary, in consultation with the Equity and Inclusion Office will ensure that the members of the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence receive appropriate education and training on Discrimination and Harassment.

## INTAKE OFFICES

64. The Intake Offices share responsibility for assisting with Dispute Resolution, and the intake of Complaints relating to Discrimination and/or Harassment. There are four Intake Offices:
  - a) [Human Rights & Dispute Resolution Program \(HRDR\)](#), Equity and Inclusion Office (All Community Members)
  - b) [Student Support & Case Management Office \(SSCM\)](#), Student Affairs (Students)
  - c) [Employee and Labour Relations \(ELR\)](#), Human Resources Services (Faculty or Staff members)
  - d) [Faculty of Health Sciences \(FHS\) Professionalism Office](#) (FHS Community Members)
65. Intake Coordinators are responsible for ensuring the Complainant fully understands the procedures of the Policy and what may result from the decision to file a Complaint.
66. The statement of Complaint will be reviewed by the respective Intake Office Director, who may consult with the [Director \(HRDR\)](#), to determine the applicability of this Policy, the *Sexual Violence Policy*, and/or other University policies.
67. The Director of the relevant Intake Office will review any Interim Measures on an ongoing basis throughout the process to ensure they remain necessary and appropriate in the circumstances.

## RESPONSE TEAM

68. The Response Team is activated by the relevant Intake Office Director, where a case potentially presents community risk and/or requires consultation with multiple partners for a coordinated response.
69. The Response Team will be chaired by the relevant Intake Office Director, and may include the Director (SVPRO), as a consultant, and as appropriate in the circumstances, the Directors of other relevant campus partners.
70. As necessary the relevant Intake Office Director may draw upon representatives of other key services and/or departments (e.g. Director of Housing and Conference Services, Director of the Student Wellness Centre, etc.), disclosing identities only on a need-to-know basis in order to appropriately respond to the matter.
71. When the allegations include the potential for an ongoing/further risk of violence, the relevant Intake Office Director may, on behalf of the Response Team, consult with the Director of Security Services, disclosing identities on a need-to know basis.

## INVESTIGATORS

72. All Investigators, whether internal or external to the University, will have training and expertise in the area of Discrimination and Harassment, and in using an intersectional, anti-oppressive, and a trauma-informed approach to Investigation processes. Investigators will follow the mandate and scope of the investigation as determined by the University.

## DECISION-MAKERS FOR INTAKE AND INVESTIGATIONS

73. The Decision-Makers are, as applicable, the:
  - a) Assistant Vice President & Chief Human Resources Officer for staff Respondents;
  - b) Associate Vice-President (Students and Learning) & Dean of Students for student Respondents;
  - c) Provost and Vice-President (Academic) for faculty Respondents; and
  - d) Executive Vice-Dean & Associate Vice-President (Academic) for faculty Respondents in the Faculty of Health Sciences.
74. More than one Decision-Maker may be involved in cases where a Respondent has more than one type of relationship with the University (such as a student who also holds a staff appointment).
75. When the Respondent is a Community Member but is not currently a student, staff, or faculty member, the investigation report will be reviewed by the Decision-Maker related to the Respondent's area of activity at the University.
76. Decision-Makers are responsible for reviewing and responding to Investigation Reports (see [Investigation Procedures](#)), and authorizing appropriate Interim Measures.
77. When the line of authority is unclear, the Provost and Vice-President (Academic) or the Vice-President (Administration), as appropriate, will determine the appropriate individual in the line of authority.
78. Should there be a conflict of interest with a Decision-Maker, the appropriate Vice-President shall assume the responsibilities of the Decision-Maker under this Policy. Similarly, if that Vice-President is in a conflict then another Vice-President or the President shall act.
79. Decision-Makers are responsible for determining whether Hamilton Police Services need to be notified and for authorizing that notification, as specified in clauses 37 - 38.

## SECURITY SERVICES SPECIAL CONSTABLES

80. All Special Constables will receive training on intersectional, anti-oppressive, and trauma-informed response to Reports of Discrimination and/or Harassment.
81. When a Community Member elects to make a Criminal Report, Security Services will report the incident to Hamilton Police Services, liaise with the person and police, and refer the individual to the relevant Intake Office Director.



## SUPERVISORS

82. Within the University Community it is recognized that there are various types of supervisors: [Academic Supervisors](#), [Academic Administrators](#), and [Workplace Supervisors](#). All such supervisors are responsible for:
- modeling acceptable standards of behavior;
  - supporting any employee or student who, in good faith, reports a potential violation of the Policy;
  - contacting one of the Intake Offices for guidance and advice to address the matter as appropriate in the circumstances, and cooperating with Intake Offices during Investigations, and/or in the implementation of Interim Measures, and/or sanctions;
  - completing all required training and ensuring that the people they are supervising are trained appropriately on the Policy and [RMM 300 Health and Safety Training Program](#); and
  - being aware of their roles and responsibilities as set out in the *Occupational Health and Safety Act* with respect to Workplace Violence and Workplace Harassment.

## EMPLOYEES

83. [Employees](#) are required to complete initial and periodic refresher training in Violence and Harassment Prevention, in accordance with the [Health & Safety Training Program](#).
84. Employees have additional legal obligations when they become aware of incidents of [Workplace Harassment](#) and [Workplace Violence](#) as follows:
- in accordance with the *Occupational Health and Safety Act*, all employees of the University must report any incident of Workplace Harassment and/or Workplace Violence to their Supervisor or to an Intake Office. Any immediate or urgent incidents should also be reported to Security Services.
  - Workplace Supervisors must take every reasonable precaution to protect the safety of an employee. Supervisors are expected to consult with either the [Director \(HRDR\)](#) or [Employee and Labour Relations \(ELR\)](#) office when they become aware of an incident of Workplace Harassment and/or Workplace Violence. Any immediate or urgent incidents should be reported to Security Services.

## COMMUNITY MEMBERS

85. All [Community Members](#) are responsible for contributing to and maintaining an environment that is free of Discrimination and Harassment, and for participating in education and training programs.

## SECTION VI: INVESTIGATIONS

### INTAKE OF COMPLAINTS

86. If an individual wishes to file a [Complaint](#) of Discrimination and/or Harassment for the University to address, they must contact an **Intake Coordinator** in one of the [Intake Offices](#) (refer to page 6).
87. Any Community Member who is the subject of an allegation under the Policy will be assisted by an Intake Office Director who will ensure that they receive support and guidance, and are in receipt of relevant information, services and supports relating to the Policy and Procedures.
88. The **Intake Coordinators** are responsible for:
  - a) ensuring that Complainants are aware of the options available to them in seeking a response;
  - b) assisting Complainants in understanding what may be involved in, and what may result from, each of the options; and
  - c) assisting a Complainant who wishes to move forward with completing a **Complaint Intake Form**, which includes a description of: what happened; who was involved in the incident; when and where the incident occurred; who (if anyone) saw or heard the incident, or saw or heard something of relevance prior to or after the alleged incident(s) of Discrimination and/or Harassment.
89. Complaint Intake Forms will be reviewed by the relevant Intake Office Director, who will review and assess the Complaint on an immediate and priority basis in order to, as appropriate:
  - a) confirm that it fits within the scope of the Policy;
  - b) consider requirements pursuant to the *Occupational Health and Safety Act*
  - c) conduct a triage of violence risk, and may consult with the Director of Security Services;
  - d) consider whether the matter may be resolved through Dispute Resolution and whether the parties are interested in voluntary resolution, and whether it is feasible/appropriate in the circumstances;
  - e) determine if an investigation is required, and, if so, set parameters accordingly, in consultation with the appropriate Decision-Maker (including, for example, which University office will be involved; internal or external investigator; timelines, mandate and scope for the investigation);
  - f) convene the [Response Team](#), as needed, to provide consultation;
  - g) consider and coordinate appropriate Accommodations and/or Interim Measures as they relate to all parties involved in the matter; and
  - h) as necessary, draw upon representatives of relevant services or departments in order to appropriately respond to the matter.
90. At any time during proceedings under this Policy, the Response Team, when convened, may determine it is necessary to disclose identities on a need-to know basis in order to administer the Policy.

#### Decision to Not Investigate

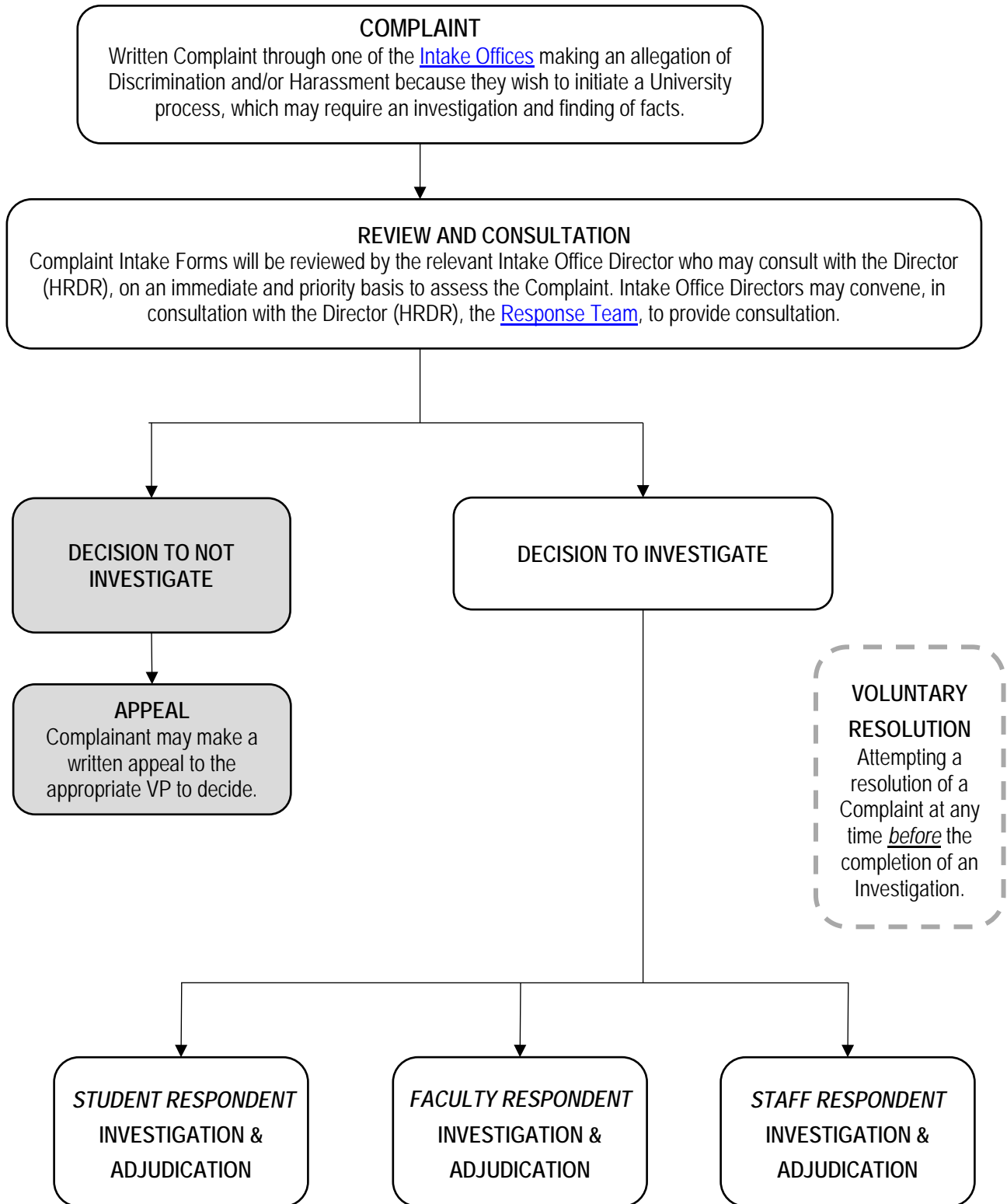
91. In some circumstances a decision may be made to not investigate. The decision will be communicated in writing, with reasons, to the Complainant by the relevant Decision-Maker. The Complainant will be informed of their right to make a written request for review of the decision to the Vice-President to whom the Decision-Maker reports.

## UNIVERSITY INITIATED INVESTIGATION

92. The University may become aware of situations where a University-initiated Investigation may be warranted, including, but not limited to circumstances where:
  - a) allegations are made about the conduct of a Community Member by an individual who is not, or is no longer, a Community Member;
  - b) one or more individuals disclose experiences of Discrimination and/or Harassment involving one individual or multiple individuals within a group/organizational environment;
  - c) the University has a duty to investigate pursuant to the *Occupational Health and Safety Act*;
  - d) the power differential in the alleged incident indicates the potential for a pattern of repeated Discrimination and/or Harassment; and/or
  - e) situations reveal broader issues to be addressed, including concerns for a Poisoned Environment.
93. The Intake Office Director, in collaboration with the Director (HRDR) and other appropriate members of the Response Team, will consult with the appropriate Decision-Maker(s) to determine whether an investigation is warranted, on the basis of both the circumstances and nature of the allegations.
94. Individuals have the right not to participate as a Complainant in any University-Initiated Investigation that may occur.

## INVESTIGATION PROCEDURES

95. Respondents have the right to know the case against them, and to produce any relevant documentation, evidence, or other information, and identify witnesses to the Investigator in response to any allegations.
96. The Investigator will impartially collect evidence and interview those witnesses they deem relevant in relation to the Complaint. The Investigator may request that the appropriate authority at the University adjust the scope and the manner in which the investigation will be conducted in order to ensure a thorough and fair investigation process.
97. All Community Members are expected to meet with the Investigator if requested to do so and to participate in good faith.
98. Complainants and Respondents have the option of being accompanied by a Support Person or Advisor.
99. All those who meet with an Investigator are required to keep confidential the Investigation and any information shared, to ensure the integrity of the proceedings. Failure to do so could be considered a breach of privacy and could be subject to a sanction under the relevant University policy.
100. An individual who was not previously identified as a Respondent but who, during the course of an Investigation, is identified as a potential Respondent (by the Investigator and with the approval of the University) will be notified and given an opportunity to meet with the Investigator and to respond to any allegations.
101. If during the course of the Investigation the Investigator believes the Complaint is frivolous (it does not have any serious purpose or value; is of little or no weight, worth, or importance), or is vexatious (instituted without sufficient grounds and only to cause annoyance) the Investigator shall refer the matter back to the Response Team to determine the next steps.



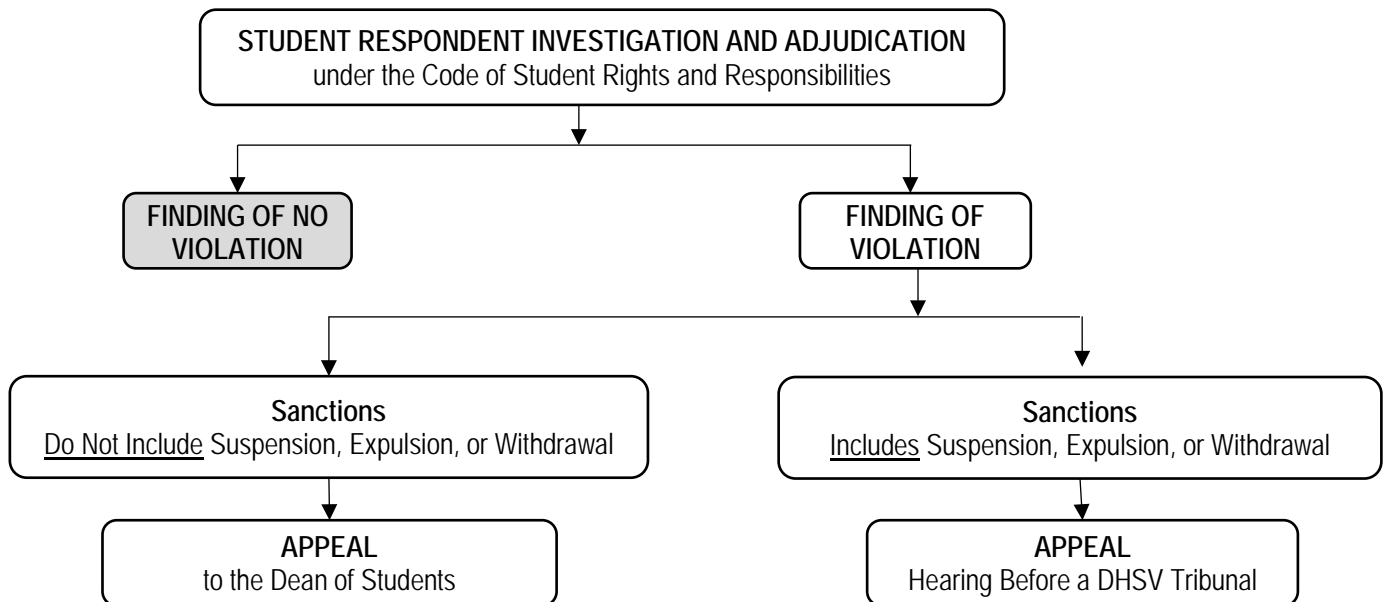
## SECTION VII: ADJUDICATION AND DECISIONS

### ADJUDICATION

- 102. Decision-Makers shall decide, on a balance of probabilities, whether the alleged Violation of the Policy has occurred.
- 103. Where a Respondent has more than one type of relationship with the University (such as a student who also holds a staff appointment) the relevant Decision-Makers may decide to adjudicate the matter jointly and any sanctions and remedies may be administered under one or both of the processes relevant to the Respondent's status.

### STUDENT RESPONDENT

- 104. The Investigation Report will be provided to the Director (SCCM) or Dean of Students as appropriate, to consider and decide upon the findings and recommendations contained in the report and adjudicate the outcome.
- 105. Sanctions and remedies will be processed in accordance with the procedures in the [Code of Student Rights and Responsibilities](#) ("the Code").
- 106. In matters where the sanctions **do not include** suspension, expulsion, or withdrawal (voluntary or involuntary), the Respondent may appeal the outcome to the Dean of Students. When the Decision-Maker is the Dean of Students, the appeal will be to the Provost.
- 107. In matters where the sanctions **include** a suspension, expulsion, or withdrawal (voluntary or involuntary), the Respondent may appeal the decision made by the Dean of Students to the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence. (see [Hearing Procedures](#)).

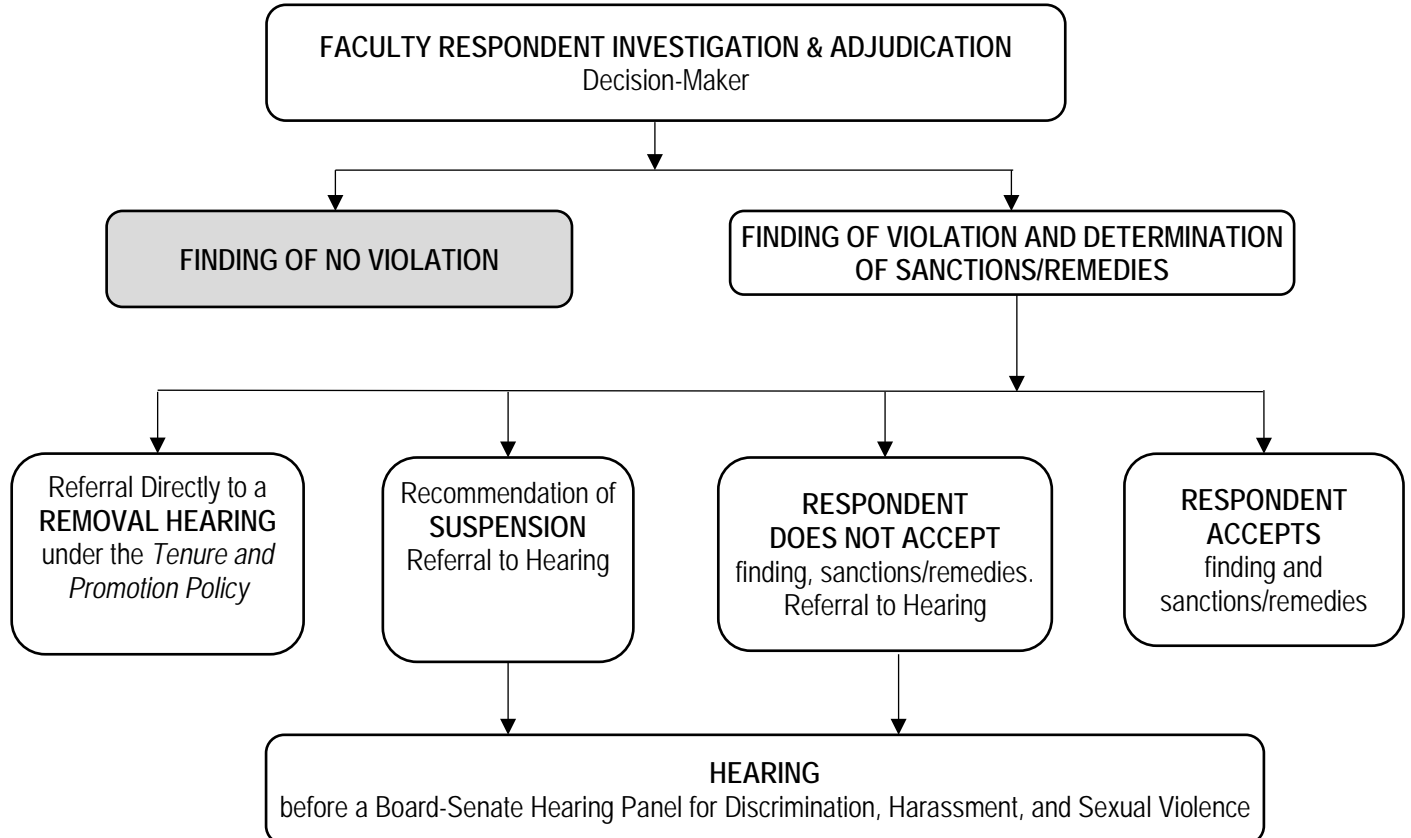


**FACULTY RESPONDENT**

- 108. The Investigation Report will be provided to the Decision-Maker (the Provost or the Executive Vice-Dean & Associate Vice-President (Academic) as appropriate) to consider the findings and recommendations contained in the report.
- 109. When considering the findings and recommendations, the Decision-Maker may consult with relevant offices (e.g. the Equity and Inclusion Office, Employee & Labour Relations, etc.) to ensure that outcomes are consistently applied, and are appropriate to relevant legislation, professional standards and regulations, and/or licensing bodies.
- 110. If the Decision-Maker makes a finding of violation of the Policy, the Decision-Maker will recommend the appropriate sanctions and/or remedies.
- 111. If the Respondent accepts the findings and the sanctions and/or remedies recommended by the Decision-Maker, the sanctions and/or remedies will be implemented, and the matter will be closed.

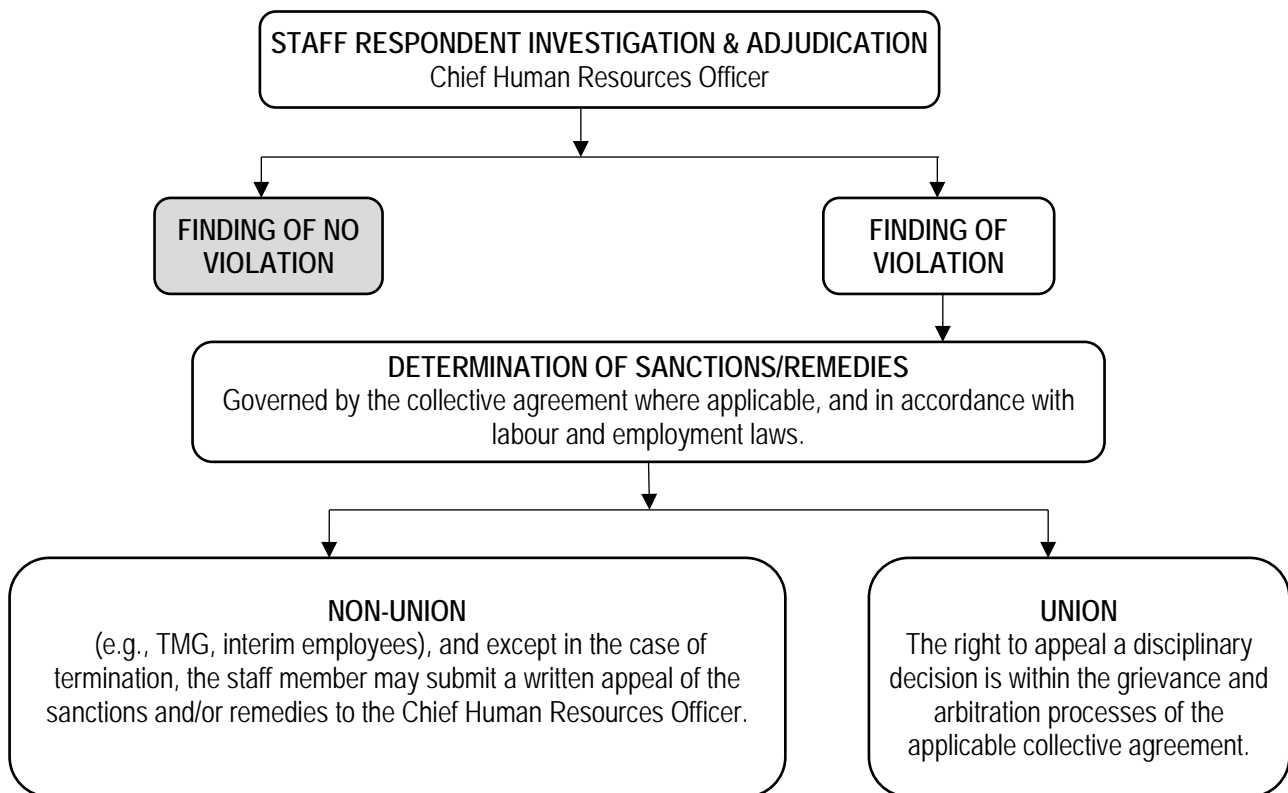
**Referral to Hearing**

- 112. If the Respondent does not accept the recommendations, or the Decision-Maker believes that suspension from the University is the appropriate sanction, the matter will be referred to a [DHSV Tribunal](#) for a hearing.
- 113. If it is determined by the Decision-Maker that Removal Proceedings should be initiated, the matter will be referred directly to the Procedures for Removal under the [Tenure and Promotion Policy](#).



**STAFF RESPONDENT**

- 114. The Investigation Report will be provided to the Chief Human Resources Officer to consider the findings and recommendations contained in the report.
- 115. If the Chief Human Resources Officer makes a finding of violation of the Policy, the matter will be referred to the [Director \(ELR\)](#) to support the [Workplace Supervisor](#) in the processes to determine appropriate remedies and/or sanctions to ensure that outcomes are consistently applied, and are appropriate to relevant legislation, professional standards and regulations, collective agreements and/or licensing bodies.
- 116. In the case of a staff member who is a member of a union, the right to appeal the remedies and/or sanctions is within the grievance and arbitration processes of the collective agreement, as may be applicable.
- 117. In the case of a staff member who is not a member of a union (e.g., members of The Management Group, interim employees), and except in the case of termination, the staff member may submit a written appeal of the remedies and/or sanctions imposed by the Workplace Supervisor to the Chief Human Resources Officer.
- 118. In the case where the Respondent's reporting line is through to the Chief Human Resources Officer, the appeal will be made to the Vice-President (Administration).



### **COMMUNITY MEMBER RESPONDENT**

119. When the Respondent is a [Community Member](#) but is not currently a student, staff, or faculty member, the relevant [Decision-Maker](#) (related to the Respondent's area of activity at the University) will consider the recommendations contained in the report.
120. If the Decision-Maker makes a finding of violation of the Policy, the Decision-Maker will decide on the appropriate sanctions/remedies.

### **NOTIFICATION OF OUTCOME**

#### **Respondent**

121. Respondents will receive a written decision from the relevant Decision-Maker, that will include:
  - a) the decision with respect to a **Finding or No Finding** of Violation of the Policy;
  - b) reasons for the decision;
  - c) a summary outlining the findings;
  - d) if the outcome is *no finding of violation* of the Policy the matter will be closed;
  - e) if the outcome is a *finding of violation* of the Policy, the Respondent will be informed of the process by which sanction(s) and/or remedies will be recommended or ordered (as per the relevant adjudication process related to the Respondent); and
  - f) where relevant, confirmation of any Interim Measures that will remain in place until sanctions are imposed.

#### **Complainant**

122. If the matter has been referred to a Hearing the Complainant will be informed of the referral.
123. Within the constraints of relevant legislation, the Complainant will be informed of the findings and reasons that are directly related to their complaint.
124. In all cases, information about any sanctions/remedies that have direct relevance to the Complainant will be provided to them.

#### **Regulatory / Professional Licensing Bodies**

125. Where required by a regulatory / professional licensing body, the relevant findings will be communicated to that professional licensing body.

#### **Affected parties**

126. Other affected parties will be informed about the findings and/or any sanctions/remedies that have a direct impact on them, within the constraints of relevant legislation.

### **SYSTEMIC AND PREVENTIVE INTERVENTIONS**

127. Investigations may reveal broader systemic issues to be addressed as a future preventative measure, regardless of whether or not there has been a finding of Discrimination and/or Harassment. In such instances, appropriate intervention measures may be recommended by Decision-Makers and /or the AVP Equity and Inclusion.



## SECTION VIII: SANCTIONS AND REMEDIES

### SANCTIONS

128. Sanctions shall be proportional to the severity of the offence, considering any aggravating, mitigating and/or contextual factors. Previous findings of a violation of this Policy or a related violation of the [Sexual Violence Policy](#) will be taken into account when sanctions are determined, and the severity of sanctions may be greater as a result. Sanctions may be used independently or in combination for any single violation and may be varied and depending on the nature of the Respondent's relationship with the University may be administered under more than one process.
129. **Sanctions** may include, but are not limited to:
- a) written reprimand;
  - b) inclusion of the decision, or summary of the decision as appropriate to comply with confidentiality requirements, in a specified file (e.g. Tenure & Promotion Dossier) of the Respondent, for a specified period of time;
  - c) the exclusion of the Respondent from, or oversight during, one or more designated University activities or duties;
  - d) a **No Contact Order**, which may include restrictions on: registration for specific classes, other academic /non-academic activities, or attendance at specific meetings or events; direct or indirect contact (including but not limited to in person, by phone, email, text, social media, through a third party etc.) with a specific individual or group of individuals;
  - e) a **Persona Non Grata (PNG)** declaration, which is undertaken when an individual is denied the privilege of entering designated portion(s) of the University's buildings or grounds. If individuals issued a PNG are found or seen in the area they are denied, they will be subject to a charge by Security Services under the *Trespass to Property Act*;
  - f) for Student Respondents, all sanctions in the [Code of Student Rights and Responsibilities](#) for findings of Discrimination and/or Harassment, including but are not limited to: behavioural contract/bond, suspension, expulsion; and for Residence students, residence probation, room transfer, denial of readmission, eviction;
  - g) for staff or faculty, **Suspension or Recommendation for Suspension**, as applicable, suspension involves relieving the Respondent of their University duties and denying them access to University facilities and services for a stated period of time and may be with or without pay and/or benefits. A recommendation for suspension of a **faculty** Respondent shall be dealt with in accordance with Section V of the [Tenure and Promotion Policy](#) and the common law where applicable; and
  - h) for staff or faculty, **Dismissal or Recommendation for Removal**, as applicable. A recommendation for removal of a **faculty** Respondent shall be dealt with in accordance with Section VI of the [Tenure and Promotion Policy](#) and the common law where applicable.

### REMEDIES

130. **Remedies** may include but are not limited to:
- a) mandated counselling;
  - b) training or coaching;
  - c) [Restoration Processes](#) / [Workplace Restoration Processes](#).

## APPENDIX A: DEFINITIONS

All definitions in this Policy include, but are not limited to, the definitions articulated in the [Ontario Human Rights Code](#) and described in the [Occupational Health and Safety Act](#).

**Accommodations** under this Policy are adjustments to individuals' academic, workplace, or residence arrangements made to support them and/ or enhance their safety (e.g. a change in assignment deadlines or tutorial group, a change in supervisory arrangements, a change in residence location).

**Advisor:** A person of the individual's choice who acts in an advisory role during the complaint and investigation process (e.g. friend, family member, union representative, legal counsel), but is not a witness or potential witness in the matter. The Advisor may be present during Investigation interviews but may not participate as a representative. The Advisor may assist the individual at a Hearing before a Tribunal of the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence.

**Agent:** Anyone hired by the University or working on behalf of the University such as an external investigator or a physician or other health care professional.

**Balance of Probabilities** is the test to be met to show, by the weight of the evidence presented, that all of the facts necessary to make a determination that a violation of the Policy has occurred, have a greater likelihood of being true than not.

**Community Members** include, but are not limited to: students (graduate, undergraduate, and continuing education), staff, faculty, medical residents, volunteers, visitors (including visiting professors), and institutional administrators and officials representing McMaster University.

**Complainant:** The individual who files a Complaint alleging a violation of the Policy for the University's response.

**Complaint:** A Complaint is made when an individual notifies an Intake Coordinator of an allegation under the Policy or files an incident report with their Supervisor and seeks the University's response.

**Confidentiality:** Refers to the obligation of an individual or organization to safeguard entrusted information. The practice of confidentiality includes obligations to protect information from unauthorized access, use, disclosure, modification, loss or theft.

**Creed:** includes but is not necessarily limited to religious beliefs and practices. Creed may also include non-religious belief systems that, like religion, substantially influence a person's identity, worldview and way of life. The following characteristics are relevant when considering if a belief system is a creed under the *Human Rights Code*. A creed: is sincerely, freely and deeply held; is integrally linked to a person's identity, self-definition and fulfillment; is a particular and comprehensive, overarching system of belief that governs one's conduct and practices; addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a Creator and/or a higher or different order of existence; has some "nexus" or connection to an organization or community that professes a shared system of belief.

**Disability:** 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; a condition of mental impairment or a developmental disability; a learning disability, or a dysfunction in one or more of the processes involved in

understanding or using symbols or spoken language; and a mental health disorder/illness; or 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 an unjust or prejudicial form of unequal treatment, whether imposing extra burdens or denying benefits, based on any of the grounds articulated in the *Human Rights Code*. It may be intentional or unintentional. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but disadvantage certain groups of people ([systemic discrimination](#)). Discrimination may take obvious forms, or it may happen in very subtle ways. Even if there are many factors affecting a decision or action, if Discrimination is one factor, then that is a violation of this Policy.<sup>1</sup>

**Dismissal:** Dismissal/termination proceedings for staff Respondents shall be dealt with in accordance with the established policies and procedures and by the terms of existing contracts of employment or collective agreements and the common law where applicable.

**Dispute Resolution:** Engaging in discussions, as appropriate, to assist a Community Member in resolving a dispute or concern, or addressing a situation, in situations where a Report has not been made.

**DHSV Tribunal:** A Tribunal of the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence.

**Employee:** Where applicable, employee is used to refer to staff (see below) and faculty (see below).

**Ethnic Origin:** Statistics Canada states that “ethnic origin” refers to the cultural origins of a person’s ancestors. In the *Human Rights Code*, the ground of ethnic origin overlaps with a more commonly used term, “ethnicity,” which refers to a shared cultural heritage or nationality. Ethnic groups might be distinguished on the basis of cultural traits such as language or shared customs around family, food, dance and music. People who share an ethnic origin, ethnicity or ancestry may or may not share the same racial identity.

**Event (Authorized):** Authorized events are University scheduled or University approved activities, occurring on or off University premises, e.g. public lectures, performances, placements (co-op or clinical), athletic events, work or study-related conferences/training sessions, etc. These events can include work or study-related travel. Events that are approved under the [Policy on Students Groups \(Recognition, Risk Assessment and Event Planning\)](#) are also authorized events.

**Event (Non-authorized):** Non-authorized events are events that are not scheduled or approved by the University and may occur on or off University premises e.g. group trips that have not been approved under the [Policy on Students Groups \(Recognition, Risk Assessment and Event Planning\)](#), drinking games in residence, house parties, etc.

**Expulsion** applies to student Respondents and is the loss of all academic privileges at the University for an indefinite period.

**Faculty** are defined as academic teaching staff, clinical faculty, and senior academic librarians who are members of the “teaching staff”. Teaching staff as defined in the McMaster University Act means the employees of the University or of a college affiliated with the University who hold the academic rank of professor, associate professor, assistant professor or lecturer.

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<sup>1</sup> Modified Language from “A policy primer: Guide to developing human rights policies and procedures (1996; revised December 2013) © Queen’s Printer for Ontario, 2013. Reproduced with permission.

**Frivolous, Vexatious Complaints:** A Complaint may be considered frivolous if it does not have any serious purpose or value; is of little or no weight, worth, or importance. A Complaint may be considered vexatious if instituted without sufficient grounds and only to cause annoyance.

**Harassment** means engagement in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. "Vexatious" comment or conduct is comment or conduct made without reasonable cause or excuse. Harassment includes Sexual and/or Gender-Based Harassment and Workplace Sexual Harassment.

**Incident Report:** An [incident report](#) is a report completed by a Community Member and signed by their Supervisor when an incident/injury occurs in their working environment while they are engaged in University-related activities.

**Interim Measures:** Steps that are taken in order to safeguard the environments of all individuals. Interim Measures shall not be construed as evidence of either guilt or a finding of violation of the Policy, or as an affirmation of innocence or finding that no violation of the Policy has occurred.

**No Contact Order:** Includes restrictions on: registration for specific classes, other academic or non-academic activities, or attendance at specific meetings or events; direct or indirect contact (including but not limited to in person, by phone, email, text, social media, through a third party etc.) with a specific individual or group of individuals.

**Persona Non Grata (PNG):** An official declaration that an individual is denied the privilege of entering designated portion(s) of the University's buildings or grounds. If individuals issued a PNG are found or seen in the area they are denied, they will be subject to a charge by Security Services under the *Trespass to Property Act*.

**Poisoned Environment** means an environment where harassing and/or discriminatory conduct, on the basis of a person's sexuality, gender identity or gender expression, is found to be sufficiently severe, intimidating, hostile, offensive, and/or pervasive to cause significant and unreasonable interference to a person's study or work environment. A Poisoned Environment can interfere with and/or undermine work or academic performance and can cause emotional and psychological stress for some employees or students not experienced by other employees or students. As such, it results in unequal terms and conditions of employment or study and prevents or impairs full and equal enjoyment of employment or educational services, benefits, or opportunities. Although a person may not be the target of the conduct, a person may feel the effects of certain harassing or discriminatory conduct at their place of work or study.

**Recommendation for Removal:** A recommendation for removal of a faculty Respondent will be dealt with in accordance with Section VI of the Tenure and Promotion Policy and the common law where applicable.

**Respondent:** Those about whom allegations have been made in a Complaint process.

**Restoration Processes:** Processes focusing on restoring the losses suffered by Complainants, holding Respondents accountable for the harm they have caused, and building peace within communities. Restoration Processes are premised on the voluntary and cooperative participation of all parties in the resolution process. This process, which may not be appropriate or viable in all cases, can be facilitated by an Intake Office.

**Senior Administration:** For the purposes of this Policy, Senior Administration refers to the President, Provost and Vice-President (Academic), and Vice-President (Administration).

**Sexual Harassment**<sup>2</sup> means engaging in a course of vexatious comment or conduct against an individual because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or making a sexual solicitation or advance to an individual where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the individual and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

**Staff:** Employees of the University including, but not limited to: The Management Group (TMG), unionized employees, temporary employees, casual employees, non-teaching staff<sup>3</sup>, Sessional Faculty, Post-doctoral Fellows, and Teaching Assistants.

**Student:** A student is any individual recorded by the University Registrar as enrolled in an educational course of study recognised by the Senate and for whom the University maintains education records.

**Supervisor:** there are various types of supervisors within the University Community, which include the following:

- **Academic Supervisor** who oversees the academic work of a student, the most common example being a faculty member overseeing a graduate student's academic work;
- **Academic Administrator** is any faculty or staff member acting in their capacity as supervisor/administrator within a Faculty, Academic Department, etc., which includes, but is not limited to, Department Chairs, Deans, or other supervisors who oversee the work of a [Community Member](#) (e.g. a faculty member overseeing a Post-Doctoral fellow / technician / undergraduate or graduate student performing research in the faculty member's laboratory).
- **Workplace Supervisor** is "a person who has charge of a workplace or authority over a [Worker](#)" (*Occupational Health and Safety Act*). Supervisors are responsible for knowing the *Duties of Supervisors* under the Act.

**Support:** The provision of resources appropriate to the individual and the circumstances. This may include access to the Student Wellness Centre, Employee Family Assistance Program, and/or McMaster Students Union (MSU). Support resources do not include the provision of legal counsel.

**Support Person:** A person of the individual's choice who acts in a supportive role but is not an active participant in the process (e.g. friend, Elder, parent, religious advisor). The Support Person may be present during Investigation interviews but may not participate as a representative.

**Suspension** involves relieving a faculty or staff Respondent of their University duties and denying them access to University facilities and services for a stated period of time, which may be with or without pay and/or benefits. A recommendation for suspension of a faculty member will be dealt with in accordance with Section V of the Tenure and Promotion Policy and the common law where applicable. Suspensions of staff members will be dealt with in accordance with established policies and procedures and by the terms of existing contracts of employment or collective agreements and the common law where applicable. For a student Respondent, suspension is the loss of all academic privileges at the University for a specified period of time and/or until imposed conditions are met. The student is eligible to return after this time but may be required to fulfill specified non-academic conditions upon return.

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<sup>2</sup> Source: Government of Ontario, [Ontario Human Rights Code](#) 2019

<sup>3</sup> "non-teaching staff" means the employees of the University and of a college affiliated with the University who are not members of the teaching staff –The McMaster University Act, 1976

**Systemic Discrimination:** Policies, practices and institutional procedures which, deliberately or not, have the effect of creating or perpetuating disadvantage and discrimination against identifiable groups on grounds prohibited by the *Human Rights Code*.

**Tenure and Promotion Policy:** The McMaster University Revised Policy and Regulations with Respect to Academic Appointment, Tenure and Promotion.

**Voluntary Resolution:** Steps taken (e.g. arrangement of academic, work or living environment / conditions) to resolve or remedy a Complaint, with which both the Complainant and Respondent have agreed.

**Workplace Harassment**<sup>4</sup> means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome; or workplace sexual harassment.

**Workplace Restoration** is the establishment or re-establishment of harmonious working relationships between individuals and within a team, group or unit.

**Workplace Sexual Harassment**<sup>5</sup> means engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

**Workplace Violence**<sup>6</sup> means: the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker; an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

**Worker:** The definition of a Worker includes: a person who performs work or supplies services for monetary compensation; and a person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution. Unpaid students, learners and trainees who are workers under the Occupational Health and Safety Act have the same duties and rights as paid workers. Placement employers have the same duties to protect the health and safety of unpaid students, learners or trainees who are workers under the Occupational Health and Safety Act as they do to protect their paid workers. The definition of “worker” does not include a volunteer who works for no monetary payment of any kind.

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<sup>4</sup> Occupational Health and Safety Act

<sup>5</sup> Government of Canada [Restoring The Workplace Following A Harassment Complaint: A Manager's Guide](#)

<sup>6</sup> Occupational Health and Safety Act

## APPENDIX B: RESOURCES

Community Members who make a Complaint, or who are the subject of an allegation, are encouraged to contact any of the Intake Offices to ensure that they are in receipt of relevant information and services.

### Support for the University Community

- [Human Rights & Dispute Resolution Program](#), Equity and Inclusion Office
- [Faculty of Health Sciences Professionalism Office](#)
- [Security Services](#)
- [Chaplaincy Centre](#)

### Additional Support for Students

- [Student Wellness Centre](#) (personal counselling and medical services)
- [Student Support & Case Management](#) (support and guidance about the Code of Student Rights and Responsibilities)
- [Indigenous Student Services](#) (community support and resources for Indigenous students)
- [Women and Gender Equity Network, McMaster Student Union](#) (peer support and resources)
- [Graduate Students Association Health & Dental Plans](#) (health benefits include access to psychological counselling in the community)

### Additional Support for Staff and Faculty

- [Union or Association](#)
- [Employee & Labour Relations](#)
- [Employee and Family Assistance Program](#) (access to professional counsellors, legal guidance and other supportive services available to staff and faculty)

### Support in the Broader Community

- [Good2Talk \(24/7 phone support for students offered by professional counsellors\)](#)
- [Sexual Assault/Domestic Violence Care Centre](#)
- [Hamilton Police Services – Victim Services Branch](#)
- [John Howard Society](#) or [Elizabeth Fry Society](#) (for individuals in conflict with the law)

### Guidance about a Policy and/or Procedures

- [Equity and Inclusion Office](#)
- [Employee & Labour Relations](#)
- [Student Support & Case Management](#)
- [University Secretariat](#)

### Independent Resource

- [Ombuds Office](#) provides an independent, impartial, and confidential process through which students may pursue a just, fair and equitable resolution of a University related concern.

## APPENDIX C: JURISDICTION

1. Complaints may be made, or Investigations initiated about any alleged violation of this Policy involving any Community Member, including members of recognized groups, teams and clubs. The Policy may extend to incidents that occur off campus where there is a clear nexus to the working and/or learning environment at the University and recognizes that social media conduct may give rise to a violation of the Policy.
2. Nothing in this Policy is meant to supersede the terms and conditions of any collective agreement, or any other contractual agreement, entered into by the University and its employee groups. In the event that the provisions of this Policy contradict any such collective or contractual agreement, the collective or contractual agreement governs, to the extent of the contradiction.
3. To the extent that this Policy affects the terms and conditions of employment of faculty of the University, it may be subject to discussion and/or approval in accordance with the University policy entitled, *The Joint Administration/Faculty Association Committee to Consider University Financial Matters and to Discuss and Negotiate Matters Related to Terms and Conditions of Employment of Faculty*, revised by the Board of Governors on October 20, 1988 (the 'Joint Administration/Faculty Association' policy).
4. Should a Complainant, with respect to the subject matter of a Complaint dealt with under this Policy and/or the [Sexual Violence Policy](#), seek redress under the [Ontario Human Rights Code](#), the [Criminal Code](#), the [Occupational Health and Safety Act](#), the provisions of an applicable collective agreement, or through civil litigation, or any other forum external to the University, the appropriate Decision-Maker, in consultation with the [Director \(HRDR\)](#), and/or relevant Intake Office Director, will determine whether proceedings under this Policy will be initiated.
5. If proceedings under this Policy and/or the *Sexual Violence Policy* have already been initiated, the appropriate Decision-Maker, in consultation with the Director (HRDR) and/or relevant Intake Office Director, will determine in the circumstances whether or not the proceedings under this Policy will:
  - a) be permanently discontinued;
  - b) be disallowed; or
  - c) be suspended until proceedings in the external or other forum are concluded, although Interim Measures may be put in place to safeguard the environments of the parties involved.
6. If a jurisdictional issue arises between the University and an affiliate, off-site entity or other third party, a senior officer of the affiliate/third party, and the University Provost or Dean and Vice-President (Health Sciences) or relevant Decision-Maker in conjunction with the University Vice-President (Administration), will attempt a resolution, which may include a joint investigation or an agreement to share the findings and/or other relevant outcomes with the other party. In the absence of any agreement to the contrary, the University will proceed with the investigation according to University policy and procedures.
7. This Policy is not intended to supersede or interfere with the criminal justice system; all persons have the right to pursue legal avenues.
8. Respondents in a Complaint procedure must be Community Members. If a person alleged to have engaged in Discrimination and/or Harassment is not currently a Community Member, the University has no jurisdiction to pursue or adjudicate the incident. However, the University reserves the right to take whatever steps it considers appropriate to safeguard the University Community.
9. As part of the University's commitment to a Discrimination and Harassment free working, studying and living environment, all external agencies, third-party service providers, and independent contractors who do business on the University and are considered agents of the University will be informed of the existence of this Policy and of the University's expectation that these external entities shall govern themselves accordingly while doing business with the University. Information to this effect will be included in all contracts.



## APPENDIX D: RELATED POLICIES AND LEGISLATION

This Policy is to be read in conjunction with the following policies, statements, and collective agreements. Any question of the application of this Policy or related policies shall be determined by the Provost and Vice President (Academic) or the Vice President (Administration) as appropriate, and in conjunction with the administrator of the other policy or policies. The University reserves the right to amend or add to the University's policies and statements from time to time (this is not a comprehensive list):

- [Academic Accommodation of Students with Disabilities](#)
- [Academic Freedom, Statement \(SPS E1\)](#)
- [Accessibility – University Policy on](#)
- [Code of Conduct for Faculty and Procedures for Taking Disciplinary Action](#)
- [Code of Student Rights and Responsibilities](#)
- [Complaint Resolution Procedure for TMG](#)
- [Conflict of Interest Guidelines- Undergraduate Studies and Graduate Studies](#)
- [Employee & Labour Relations – Collective Agreements](#)
- [Faculty General Grievance Procedure](#)
- [Freedom of Information and Protection of Privacy Act](#)
- [Hearing Procedures for the Board-Senate Hearing Panel for Discrimination, Harassment and Sexual Violence](#)
- [Ministry of Training, Colleges and Universities Act](#)
- [Ontario Human Rights Code](#)
- [Occupational Health and Safety Act](#)
- [Personal Health Information Protection Act](#)
- [Professional Behavior Code for Graduate Learners, Health Sciences](#)
- [Professional Behavior Code for Undergraduate Learners, Health Sciences](#)
- [Senate Resolutions re Group Conflict](#)
- [Senate Mediation Procedures](#)
- [Sexual Violence Response Protocol](#)
- [Sexual Violence Policy](#)
- [Statement on Building an Inclusive Community with a Shared Purpose](#)
- [Inclusive Communications, Policy Statement and Guidelines on](#)
- [Students Groups \(Recognition, Risk Assessment and Event Planning\), Policy on](#)
- [Tenure and Promotion Policy \(McMaster University Revised Policy and Regulations with Respect to Academic appointment, Tenure and Promotion\)](#)
- [Trespass to Property Act](#)
- [Violence in the Workplace, Policy on](#)
- [Workplace Accommodation, Policy on](#)
- [Workplace & Environmental Health and Safety Policy](#)