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Diversity & Human Rights



HUMAN RIGHTS **POLICY**

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THE HUMAN RIGHTS POLICY DOCUMENT

The University of Guelph Human Rights Policy is supplemental to and does not replace individual or group rights or responsibilities arising from the Ontario Human Rights Code.

This document replaces the previous version of the Policy documented in Human Rights at the University of Guelph, approved by the Board of Governors October 7, 2009

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1. FOUNDATION STATEMENT

The University of Guelph's commitment to the maintenance of human dignity, of individuals and groups of individuals, is central to this Human Rights Policy ("Policy"). The University is committed to a campus free of discrimination and harassment and is dedicated to the highest standards of human equality and academic freedom. The University actively endorses these standards at every level of the institution and in all aspects of student, faculty and staff life while individuals or groups are acting in a capacity defined by their relationship with the University. As well as promoting these values, persons with supervisory responsibilities, as that term is defined in Section 8 of this Policy, are expected to address and attempt to resolve human rights issues, whenever possible, through informal discussion or by mediation as outlined in the Procedures to this Policy.

This Policy has two components; the Policy Document and the Procedures Document. Nothing in this Policy denies or limits access to other avenues of redress available under the law, such as an application under the Ontario *Human Rights Code* (*Code*) or a union or association grievance.

2. RELATIONSHIP TO THE ONTARIO HUMAN RIGHTS CODE

The Supreme Court of Canada has stated that the provisions of human rights codes bind universities. Where the provisions of any policy, procedure or practice of the University purport to require or to authorize conduct that is in contravention of the *Code*, the provisions of the *Code* will prevail.

3. STATEMENT OF COMMITMENT

Violations of human rights will not be tolerated at the University. Discrimination and harassment based on grounds prohibited by the *Code* devalues and taints the environment of those covered by this Policy. They erode the values and the integrity of the University. The University values:

- Every student, employee, alumnus/a and volunteer;
- An environment, for those covered by this Policy, that is safe, positive, respectful and conducive to the pursuit of excellence;
- Equity, innovation, accountability and accessibility;
- The existence of a collegial governance structure;
- Upholding the principles of the equality rights provisions of the *Canadian Charter of Rights and Freedom*;
- Meeting its obligations under the provisions of the *Code*;
- The uniqueness and diversity of our students, employees and community;
- A partnership of students, employees and community.

Under the *University of Guelph Act*, the ultimate responsibility for the educational policy of the University rests with the Senate. This includes, but is not limited to, academic issues relating to curriculum (course content, teaching practice and methods of evaluation). It is recognized that, although this Policy provides mechanisms for addressing complaints which may involve issues related to curriculum, nothing in this Policy and its Procedures will be interpreted so as to alter the Senate's jurisdiction regarding educational policy.

4. ACADEMIC FREEDOM AND HUMAN RIGHTS

Academic freedom — the right to examine, to question, to teach and to learn freely — is a basic tenet of university life. The practice of academic freedom is supported by the provisions of the *Canadian Charter of Rights and Freedoms*, which in Canada guarantees freedom of thought, belief, opinion and expression. The University believes that the ability to investigate, to speculate, to comment and to criticize without deference to prescribed doctrine or authority is a precious freedom that must be protected and nurtured at all times. For the

University to maintain its place as a center of excellence and to nurture its environment of creative and original research, it is crucial that academic and intellectual independence be strong and secure.

The University acknowledges that situations arise in which there is a perceived conflict between academic freedom and human rights. A violation of either freedom is of grave concern to the University. With respect to the interplay of human rights protection and the practice of academic freedom, it is the position of the University that discussion of controversial issues in or out of the classroom is not a violation of this Policy.

Academic freedom entails the right of all University community members to make statements that challenge and may even offend the sensibilities, ideas and beliefs of others. On the other hand, academic freedom does not entail a right to discriminate against or harass individuals on grounds protected by the *Code* and this Policy.

5. THE COVERAGE OF THIS POLICY

This Policy applies to all formal and informal policies, practices, procedures and decision-making processes of the University. This Policy also applies to and covers all University of Guelph students, administrators, employees, Board of Governors and Senate members, employee organizations and invitees, while such individuals or groups are acting in a capacity defined by their relationship with the University. Allegations against students at University of Guelph-Humber (G-H) are covered by policies at Humber.

Note: This policy does not apply to University of Guelph employees at G-H when they are complainants against a Humber employee or a G-H student.

6. DEFINITION OF DISCRIMINATION AND HARASSMENT

Discrimination has been defined by the courts as “a distinction, whether intentional or not, but based on grounds relating to personal characteristics of the individual or group, which has the effect of imposing burdens, obligations or disadvantages on such individuals or groups not imposed upon others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society”. Harassment has been defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. One incident can be significant or substantial enough to constitute harassment. This includes harassment and discrimination, whether intended or not, based on the following grounds:

- Disability
- Sex (including pregnancy)
- Sexual orientation
- Race
- Colour
- Ancestry
- Family status
- Gender expression
- Gender identity
- Place of origin
- Ethnic origin
- Citizenship
- Creed
- Age (18 years or more)
- Marital status
- Receipt of public assistance (in accommodation only)
- Record of offences (in employment only).

(And all other grounds as identified by the Ontario *Human Rights Code*)

7. FUNDAMENTAL TENETS

7.1 No Discrimination or Harassment

A violation of human rights, including discrimination and harassment, is a breach of this Policy.

7.2 Reprisals

It is a breach of this Policy to take a reprisal against an individual because that individual has participated in a process to enforce human rights under this Policy the *Code* or other applicable legislation. A written allegation of a reprisal will be treated as a formal complaint under this Policy.

7.3 Breach/No Breach of Policy

Anyone named in concerns, disputes or formal complaints under this Policy will not be considered in breach of the policy until a formal decision to the contrary is reached under the terms of this Policy.

7.4 Onus and Standard of Proof

Allegations of breaches of the Policy must be proven on a “balance of probabilities”, the same standard used in human rights inquiries and civil law matters, and not on the more stringent criminal law standard of "beyond a reasonable doubt". Sufficient evidence must appear to exist to support a case for fact finding (*prima facie case*).

7.5 Bad Faith Allegations

It is a breach of this Policy for any person to make an allegation of discrimination or harassment in bad faith, or to initiate a procedure under this Policy in bad faith or to influence an ongoing procedure under this Policy in bad faith. A written assertion that a bad faith allegation has been made will be treated as a formal complaint under this Policy. If such an allegation is substantiated, it will be subject to the same consequences as complaints of discrimination or harassment.

8. DUTIES AND RESPONSIBILITIES

All members of the University community have the responsibility not to engage in activities that constitute a breach of this Policy. The University has a duty to maintain an environment free of discrimination and harassment for all persons served by it, and to be vigilant against violations of this Policy. The University has an obligation to make reasonable accommodation, where appropriate, on grounds covered in the *Code* and this Policy. Quite apart from the general expectations for all members of the community, the University’s administrators, deans, chairs and directors of academic departments, other directors and supervisors (referred to hereinafter as "a person(s) with supervisory responsibilities") are in positions of trust, power and authority and have a particular duty to take steps to prevent discrimination and harassment on the grounds covered by this Policy and to support the implementation of its Procedures. Persons with supervisory responsibilities are also encouraged to support, where established, special programs designed to eliminate disadvantage caused by discrimination.

9. CONFIDENTIALITY

Confidentiality is preferred and usually leads to the best outcome. The fact finding team, parties to a concern, dispute or formal complaint and other persons involved in addressing the matter and indicated in the Procedures Document Sections 4, 5 and 6.4 have a responsibility to maintain confidentiality. Certain communications are not considered to be breaches of confidentiality. These include:

- Communications between a party and their counsel or representative under this Policy;
- Where communications are subject to legislative requirements or where there are health and safety concerns.

Any alleged breach of confidentiality should be reported to AVP (DHR) who will investigate and make recommendations, as necessary.

10. PRIVACY AND ACCESS TO INFORMATION

The University, as an educational institution, is subject to the Ontario *Freedom of Information and Protection of Privacy Act* (“FIPPA”), and information gathered, disclosed or otherwise obtained in relation to a matter under this Policy may constitute personal information as defined in FIPPA.

Personal information collected by DHR for the purposes of administering this Policy shall be disclosed only in accordance with applicable privacy legislation. Individuals who wish to request access to records held by DHR should refer to the University’s statement titled, “Protection of Privacy and Access to Information at the University of Guelph”.

11. THE OFFICE OF DIVERSITY AND HUMAN RIGHTS

DHR is responsible for managing processes in a consistent, timely, impartial and fair manner. DHR is responsible for:

- Providing advice to all participants under this Policy and its Procedures;
- Assisting persons with supervisory responsibilities in the resolution of human rights concerns;
- Managing the fact-finding process;
- Helping those who are involved in the dispute or complaint resolution procedures under this Policy to acquire the assistance and support of trained personnel;
- Bringing to the attention of persons with supervisory responsibilities any University policy, procedure or practice that appears to discriminate against an individual or a group based on prohibited grounds;
- Acting on equity-related matters.

Translation services (including American Sign Language) will be provided through DHR should they be needed.

In the event, that the AVP (DHR) or a staff member of DHR is either a complainant or a respondent to a formal complaint, the role of the AVP (DHR) as outlined in this section will be assumed by a person appointed by the President.

12. TIMELINES

All complaints must be initiated and filed with DHR within one (1) year of the most recent alleged discriminatory or harassing behaviour. This time limit may be extended where the complainant’s delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay. To seek an extension of the one (1) year time limit for filing a complaint, refer to the Procedures Document (Section 7).

13. ANNUAL REPORTING AND USE OF RECORDS FOR STATISTICAL PURPOSES

The AVP (DHR) will provide a written report, annually, to the President regarding the numbers, types and outcomes of inquiries, concerns, disputes and complaints under this Policy in the preceding year. In turn, the President will release the report to the University community. Statistics for the report, or for other purposes, may be derived from confidential records, but will be reported so as to maintain the anonymity of persons named or otherwise involved in proceedings. For statistical purposes, all allegations of discrimination or harassment will be reported without names or specific details.

The President will report annually to the Board of Governors on the implementation of this Policy and on any enhancement made to the Procedures Document.

14. MONITORING AND AMENDMENT

A Human Rights Advisory Group (HRAG) will be established to advise the AVP (DHR) on matters pertaining to this Policy and its Procedures. HRAG will be comprised of two (2) representatives from each employee group, two (2) undergraduate and two (2) graduate students, up to three (3) representatives from the senior executive of the University and the AVP (DHR) who will also chair HRAG. Apart from the AVP (DHR), members of HRAG will be nominated annually by the appropriate constituency group. The mandate of HRAG will be to advise the AVP (DHR) on the following:

- Use of this Policy and its Procedures;
- Proposed changes to the Policy;
- Preparation of the annual report to the President, including analysis of statistical information about use of this Policy;
- Timing and process for a formal review of this Policy;
- Recommendation of the appointment of human rights resource persons, mediators and fact-finders under Section 3 of the Procedures Document by action through a subcommittee of HRAG.

15. THE APPROVAL PROCESSES

15.1 The Policy Document

This Policy will be reviewed at a minimum of once every five years or when recommended by the President and the AVP (DHR) whichever timeline comes first. Amendments to the Policy Document require the approval of the Board of Governors.

15.2 The Procedures Document

The Provost and Vice-President (Academic), Vice-President (External), Vice-President (Research) and Vice-President (Finance, Administration and Risk) will review any proposed enhancements or amendments to the Procedures Document that are made by AVP (DHR) and make recommendations to the President, who shall make the final decision. The President will report annually to the Board of Governors on the implementation of this Policy and on any enhancements or amendments made to the Procedures.