



THE UNIVERSITY OF
WINNIPEG

POLICY:
Respectful Working and Learning Environment
PROCEDURES:
APPENDIX: None

Respectful Working and Learning Environment Policy

AUTHORITY: University Administration

RESPONSIBILITY: President delegated to the Vice-President Human Resources,
Audit & Sustainability

Effective Date: June 1, 2013

Purpose: The purpose of the Respectful Work and Learning Environment Policy is to support a climate of mutual respect in the workplace and learning environment so that members of the University community are free from harassment and discrimination.

Scope: This Policy and the related procedures apply to anyone who is an employee or student of the University engaged in duties or activities having a substantial connection to the University, on or off campus.

Third parties, including but not limited to, contractors, volunteers and visitors to the University are expected to conduct themselves in a manner consistent with this Policy. Compliance with this Policy shall be a term of all contracts and agreements with the University and is a condition of access to the University.

This Policy is not intended to discourage or prevent individuals from exercising any other legal rights they may have pursuant to any other law, including the right to file a complaint with the Manitoba Human Rights Commission.

Responsibility: The Vice President Human Resources, Audit & Sustainability, on behalf of The Administration of the University, is responsible for the development, administration and review of this policy.

Approved: January 22, 2013

Revised:

Cross Reference:

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Non-Academic Misconduct Policy



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Definitions:

1. Discrimination

1.1 For the purposes of the application of the Policy, discrimination shall be as defined in the *Manitoba Human Rights Code* as follows:

- (a) differential treatment of an individual on the basis of the individual's actual or presumed membership in or association with some class or group of persons, rather than on the basis of personal merit; or
- (b) differential treatment of an individual or group on the basis of any Applicable Characteristic referred to in subsection 1.2; or
- (c) differential treatment of an individual or group on the basis of the individual's or group's actual or presumed association with another individual or group whose identity or membership is determined by any Applicable Characteristic referred to in subsection 1.2; or
- (d) failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any Applicable Characteristic referred to in subsection 1.2.

1.2 Applicable Characteristics

The Applicable Characteristics for the purposes of clauses 1.1(b) to (d) above are:

- (a) ancestry, including colour and perceived race;
- (b) nationality or national origin;
- (c) ethnic background or origin;
- (d) religion or creed, or religious belief, religious association or religious activity;
- (e) age;

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- (f) sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- (g) gender identity;
- (h) sexual orientation;
- (i) marital or family status;
- (j) source of income;
- (k) political belief, political association or political activity;
- (l) physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device;
- (m) social disadvantage.

2. Harassment

For the purposes of the application of the Policy, harassment may be sexual or personal in nature and shall include the definitions set out in the *Manitoba Human Rights Code* and the *Manitoba Workplace Safety and Health Regulations* as follows:

2.1 The *Manitoba Human Rights Code* defines harassment as:

- (a) a course of abusive and unwelcome conduct or comment undertaken or made on the basis of any Applicable Characteristic referred to in subsection 1.2 above; or
- (b) a series of objectionable and unwelcome sexual solicitations or advances; or
- (c) a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

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(d) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.

2.2 *Manitoba Workplace Safety and Health Regulation #217* defines harassment as:

- a) objectionable conduct that creates a risk to the health of a worker; or
- b) severe conduct that adversely affects a worker's psychological or physical well-being.

“Conduct” is deemed to include a written or verbal comment, a physical act or gesture or a display, or any combination of them.

Conduct is deemed to be “objectionable” if it is based on race, creed, religion, colour, sex, sexual orientation, gender-determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry or place of origin.

Conduct is deemed to be “severe” if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.

Sexual harassment may also involve sexually oriented behaviour or gender-based abusive and unwelcome conduct or comment that has the purpose or effect of creating an intimidating, hostile or offensive environment.

The prohibited behaviours may be physical or verbal and may include one or more of the following: unnecessary physical contact such as touching, patting or pinching; unwelcome sexual remarks or jokes that put down one’s gender; and displaying insulting materials such as pictures, cartoons or printed matter.

Personal Harassment is not based on any of the Applicable Characteristics for discrimination, and includes but is not limited to:

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- a) objectionable and unwelcome comments or actions directed toward a specific person or group of persons which serve no legitimate work or academic related purpose and have the effect of creating an intimidating, humiliating, hostile or offensive environment or excluding, isolating or undermining an individual's effectiveness in the workplace/learning environment for no legitimate work or academic-related reason; and
- b) verbal or written abuse or threats.

Examples:

The definitions and understanding of what constitutes harassment and discrimination continue to evolve as a result of developments in case law and changes in legislation. Therefore, the following examples are provided as illustrative and informative for the purpose of the Policy and Procedures.

1. Examples of Human Rights Harassment and Discrimination

Behaviours that may constitute discrimination and harassment for the purposes of the Policy include but are not limited to:

- a) derogatory written or oral comments and gestures such as name-calling, slurs, graffiti, pictures, remarks or jokes based on any characteristic referred to in the Definitions section of the Policy;
- b) evaluations of performance based on any characteristic referred to in the Definitions section;
- c) behaviours stating or implying actual or perceived abilities or inabilities based on any characteristic referred to in the Definitions section;
- d) applying stereotypes or generalizations based on any characteristic referred to in the Definitions section;
- e) refusal to work with or share facilities based on any characteristic referred to in the Definitions section above; and
- f) inappropriate questions or sharing of information about a person's sexuality or sexual orientation.

2. Examples of Sexual Harassment

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Examples of sexual harassment may include, but are not limited to:

- a) sexist remarks, jokes, innuendoes or taunting about a person's body, appearance, characteristics or clothing;
- b) displaying of pornographic or other sexually offensive or derogatory pictures or material;
- c) persistent and unwelcome invitations or request for dates;
- d) leering, ogling or other sexually oriented gestures;
- e) inappropriate touching; and
- f) sexual assault.

3. Examples of Personal Harassment

Examples of personal harassment may include but are not limited to:

- a) repeated or continuous incidents of yelling, screaming or name-calling;
- b) repeated or continuous threats to terminate employment or contracts for reasons unrelated to performance;
- c) repeated or continuous threats to withdraw funding, scholarships, employment or advancement opportunities for reasons unrelated to performance; and
- d) inappropriate and unsubstantiated comments addressed to a person which have the effect of undermining a person's role in the workplace or classroom.

Reasonable Accommodation

The University strives to be accessible and accommodating to all its constituents. The University is committed to providing reasonable accommodation for its constituents whose special needs are related to an Applicable Characteristic as defined in the Manitoba Human Rights Code and set out in the Definitions sections of the Policy.

Notwithstanding any other provision of the Policy or Procedures, it is not discrimination or a contravention of the Policy or Procedures to:

- a) make reasonable accommodation for the special needs of an individual or group, if those special needs are based upon any Applicable Characteristic ;
- b) plan, advertise, adopt or implement an employment equity program or other special program that has, as its purpose, the amelioration of conditions of

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disadvantaged individuals or groups, including those who are disadvantaged because of any Applicable Characteristic; or

- c) conduct research approved by the University of Winnipeg Senate Committee on Ethics in Human Research and Scholarship.

Principles:

The University is committed to and actively supports equal opportunity, equity, social justice, mutual respect, diversity and the dignity of all people. The University recognizes that every member of the University community has the right to participate, learn and work in an inclusive and respectful work and learning environment that promotes equal opportunities and prohibits discrimination and harassment.

The University does not condone behaviour that is likely to undermine the dignity or productivity of any of its members, and prohibits any form of discrimination or harassment, whether it occurs on University property or in conjunction with University-related activities. The University and all members of the University community, particularly those in leadership roles, share the responsibility of establishing and maintaining a climate of respect within this community and of addressing any situation(s) in which respect is lacking.

In addition, the University is committed to meeting its obligations as an employer under both the *Manitoba Human Rights Code* and the *Workplace Safety and Health Act*, and will ensure, so far as it is reasonably practicable, that no member of the University community is subject to human rights discrimination or harassment, sexual harassment or personal harassment as defined at law and in this Policy.

The University will endeavour to ensure that individuals who believe that they have been subjected to harassment or discrimination are able to express concerns and register complaints without fear of retaliation or reprisal. The University will act promptly and efficiently to deal with incidents of harassment and/or discrimination, and take corrective action respecting any member of the University community who breaches this Policy.

The University is committed to academic freedom and freedom of thought, inquiry and expression among our members, which may result in respectful disagreements regarding

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beliefs or principles. However, all members of the University community have a duty to act in a manner consistent with human rights law and University policy.

The University explicitly acknowledges the legitimate right and responsibility of academic staff members to evaluate students, correct inappropriate student behaviour, insist on order in the classroom and if necessary evict those who disrupt order in the classroom (See Student Non-Academic Misconduct policy).

Student complaints of an academic nature, and issues of academic dishonesty and misconduct on the part of students, are addressed through Senate policies and procedures and are under Senate jurisdiction, except to the extent the complaints also include allegations of misconduct involving harassment or discrimination, any of which may require the application of this Policy.

Further, the University explicitly acknowledges the legitimate right and responsibility of administrators, managers and supervisors, to evaluate job performance and to provide direction and feedback to employees. The University also explicitly acknowledges the right and responsibility of members of Departmental Personnel Committees and Chairs of Departments to provide peer evaluation to members of their Departments. When done in accordance with the law, applicable collective agreements and University policies and procedures, these actions do not constitute a breach of this Policy.

Malicious Complaints

Although it is uncommon for someone to make a false claim deliberately, it can happen. A claim that is deliberately and maliciously filed in order to damage the reputation of an individual or group, or otherwise filed in bad faith, or which is known or ought to have reasonably been known by the complainant to have no reasonable basis in fact may be considered harassment. Such complaints are not to be confused with complaints made in good faith that are ultimately found to be without merit. A malicious complaint may be the subject of a complaint under this Policy, and a malicious complaint may be grounds for discipline under the relevant policy, contract or collective agreement.

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Implementation

The University will establish procedures and mechanisms to give effect to this Policy including:

- a) the establishment and implementation of comprehensive procedures to ensure that complaints of harassment or discrimination are effectively addressed.
- b) the appointment of a Human Rights officer whose duties shall include receipt, investigation and resolution of concerns and the provision of advice and assistance to faculty, staff members, students and administration in connection with concerns, advising where mediation may be possible, and the process and procedure with respect to formal complaints under this Policy;
- c) on a case by case basis, the appointment of an Investigator whose duties shall include the investigation of formal complaints, the provision of advice and assistance to staff members, students and administration in connection with concerns and complaints as requested, and the provision of information with respect to the process and procedures the investigation will follow in accordance with the University's policy;
- d) the provision of educational programs designed to enhance awareness of this Policy and procedures relating to it for all faculty and staff; and
- e) the communication of this Policy to students through the University of Winnipeg Students Association and/or other appropriate mechanisms.

Confidentiality

The University will not disclose the name of a complainant or an alleged harasser or the circumstances related to the complaint to any person except where disclosure is necessary

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to investigate the complaint or take action with respect to the complaint or where required by law.

Secondary Documents

The President, in consultation with the Vice-President (Human Resources, Audit and Sustainability) may approve Procedures which are secondary to and comply with this Policy, subject to any consultation required in accordance with Collective Agreements.

Review:

This policy shall be reviewed in conjunction with the Procedures review at least once every five years or as may be required by changes to applicable legislation.

Effect on Previous Statements

This Policy supersedes:

- (a) all previous policies and resolutions on the subject matter herein;
- (b) all previous procedures on the subject matter herein.

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