1.35 Policy on Discrimination and Harassment

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Policy Category: General

Subject: Discrimination & Harassment

Approving Authority: Board of Governors

Responsible Officer: Vice-President (Resources & Operations)

Responsible Office: Equity & Human Rights Services

Related Procedures: **Procedures MAPP 1.35 *[link]***

Related University Policies: Safe Campus Policy [link]

Effective Date:

Revised:

I. PURPOSE

1. The purpose of this Policy is to confirm the University's commitment to providing a learning and working environment free of harassment and discrimination.

2. This policy is in accordance with all applicable federal and provincial legislation related to harassment and discrimination such as the *Ontario Human Rights Code.* It also applies to those situations defined as Workplace Harassment under the *Ontario Health and Safety Act*. The Safe Campus Policy (M.A.P.P. 1.45) should be consulted whenever there are concerns about violence in the workplace or learning environment.

II. DEFINITIONS

Discrimination

1. *Discrimination* means a distinction, intentional or not, based on a prohibited ground, which has the effect of imposing burdens, obligations, or disadvantages on an individual or group not imposed on others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society.

2. *Prohibited grounds* means any of the following: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status or disability.

Harassment

3. *Harassment* means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Harassment may be related to one or more of the prohibited grounds defined at section 2, and/or may include conduct and/or behaviours which create an intimidating, demeaning or hostile working or academic environment whether or not it is based on the prohibited grounds.

4. *Sexual Harassment* includes comment or conduct of a sexual nature such as, but not limited to, sexual assault, verbal abuse or threats, unwelcome sexual invitations or requests, demands for sexual favours or unwelcome innuendo or taunting about a person's body, physical appearance or sexual orientation and includes situations where:

    a. submission to such conduct is made either explicitly or implicitly a condition of an individual's employment, academic status or academic accreditation; or
    b. submission to such conduct by an individual is used as a basis for employment, or for academic performance, status or accreditation decisions affecting such individual; or
    c. such conduct interferes with an individual's work or academic performance; or
    d. such conduct creates an intimidating, hostile or offensive working or academic environment.

5. This definition of sexual harassment is not intended to inhibit bona fide academic discussion or interactions or relationships based on mutual free consent or normal social conduct between individuals.

6. *Personal Harassment* means conduct and/or behaviour which create an intimidating, demeaning or hostile working or academic environment whether or not it is based on the prohibited grounds defined in the *Human Rights Code*. For the purposes of this Policy, *Personal Harassment* includes *Workplace Harassment* as defined under the *Occupational Health and Safety Act* as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably known to be unwelcome.

7. Harassment does not include:
    a. interpersonal conflict or disagreement;
    b. the proper exercise of performance evaluation, appropriate managerial direction, delegation, performance management or attendance management or

c. the exercise of expression protected by the UWOFA Article *Academic Freedom*.

III. POLICY

1. Western is committed to providing a working and learning environment that allows for full and free participation of all members of the community. Discrimination against and/or harassment of individuals, whether as members of any recognizable group or otherwise, undermine these objectives and violate the fundamental rights, personal dignity and integrity of individuals or groups of individuals.

2. This policy applies to all members of the University community in their interaction with other members of the University community. The University community includes employees, students, volunteers and other individuals who work or study at the University.

3. All members of the University community share a responsibility to provide and maintain an environment free of discrimination and harassment.

4. Clause III.1 (above) does not apply to any action or decision based on a *bona fide* requirement or qualification.

5. For the purposes of determining what limitations may reasonably be imposed in good faith to meet the objective employment or academic requirements, every individual is entitled to individual consideration.

6. This Policy shall not infringe upon the implementation of special programs designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity.

7. Harassment and discrimination constitute serious offences that may be cause for disciplinary sanctions by the University.

8. Individuals may seek assistance from the Human Rights Tribunal of Ontario (HRTO) even when taking steps under this Policy. If the circumstances giving rise to a complaint under this policy independently give rise to proceedings before Human Rights Tribunal of Ontario or to proceedings in the courts or to the laying of a criminal charge, then any action under this policy may be suspended until such proceedings are concluded.

9. Any reprisals, retaliation or threats of reprisals or retaliation for pursuing rights under this policy, for having participated in its procedures, or for acting in any role under this policy and its procedures are prohibited.

10. The University may take disciplinary action against those who make allegations of harassment or discrimination which are reckless, malicious or not in good faith.

11. The University shall not be restricted in fulfilling its responsibilities under the *Human Rights Code*, *Occupational Health and Safety Act,* or other applicable legislation, or where the safety of individuals is threatened or compromised.

12. Equity & Human Rights Services shall make an annual report to the President with a copy to the University community and the Audit Committee of the Board.