PROCEDURES: MAPP 1.35 Discrimination and Harassment Policy

I General

The Offices of Equity & Human Rights Services and Associate Vice President, Human Resources have primary responsibility for administering the Discrimination and Harassment Policy in accordance with the procedures detailed herein.

II. Roles and Responsibilities

The University of Western Ontario and all members of the University community share responsibility for ensuring and promoting a safe and respectful working and learning environment that is free from discrimination and/or harassment. All members shall take proper and reasonable steps to uphold the Policy and its procedures.

In addition:

1.01. The University shall:

a. provide Academic and Administrative Leaders and members of the University community with appropriate training regarding harassment and discrimination.
b. provide supports and resources for the administration of its policies, and programs relating to discrimination and harassment including, but not limited to, this policy.
c. ensure that in addition to the Director of Equity & Human Rights Services, at least one additional Human Rights Officer (HRO) is appointed to provide education and support pursuant to this policy and procedures and other University policies related to human rights.
d. take proper and reasonable steps to prevent systemic discrimination, through avoiding policies and practices that may lead to adverse job or academic consequences.

1.02. Academic Leaders and Administrative Leaders shall:

a. become familiar with and communicate the University's policies regarding discrimination and harassment to faculty, staff and students within their Faculty/Department/Unit.
b. participate in education relating to discrimination and harassment, specifically related to administrative duties and accountabilities.
c. identify training needs and encourage all faculty, staff and students to attend relevant training related to the University's policies and programs relating to discrimination and harassment.
d. involve the HRO in any unit-based attempts at resolving or mediating potential harassment.

e. report any incident(s) which may be related to discrimination and harassment immediately to the HRO.
f. keep detailed records of any instances of discrimination and harassment and forward to the HRO and/or Associate Vice President, Human Resources (AVP-HR) as required.

1.03. University Community Members shall:

a. cooperate with the University in its exercise of the duties imposed by the Policy and these procedures (e.g., any efforts to resolve and/or investigate matters relating to discrimination and harassment).
b. report immediately any instances of discrimination and harassment to the HRO in accordance with the applicable procedure.
c. participate in training as required.

1.04 The Human Rights Officer (HRO) may:

a. facilitate the development, implementation and ongoing management/coordination of the University's policies and programs relating to discrimination and harassment including, but not limited to, this policy.
b. provide support, education and advice to Academic and Administrative Leaders with respect to dealing with discrimination and harassment issues.
c. provide information to individuals on the various support programs/mechanisms available to them (e.g. Employee Assistance Program, Student Development Services).
d. as appropriate, review and address issues of climate and culture concerns, on request of the University (through the office of the Associate Vice-President, Human Resources).
e. In June each year, provide an annual report to the President with a copy to the community. This report shall provide a statistical record of incidents occurring, including the results of alternate resolutions and dispositions of complaints.

III. Violence and Threats to Safety

1. Where an individual becomes aware of circumstances that might reasonably be interpreted as a threat to the safety of any member of the campus community, or becomes aware that any member of the campus community is a victim or perpetrator of violence, including domestic violence, the individual shall immediately report this information to the Campus Police.

1.01 The HRO may be required by law to release relevant information to law enforcement agencies or to the University regarding threats to safety or potential violence.

IV Right to advice, representation or support person

1. Individuals may seek the advice of the Human Rights Officer (HRO) in order to discuss situations which may be encompassed by this policy.

1.01 In any meeting or hearing an individual may be accompanied by a representative of his or her employee group, or by a colleague or other support or resource person of the individual's choosing.

1.02 With respect to matters arising under this Policy, individuals may be represented by legal counsel at their own expense.

V. No Reprisal or Retaliation

Any alleged reprisal or retaliation or threat thereof shall be grounds for a complaint under the Discrimination and Harassment Policy and shall proceed directly to a fact-finding investigation as described in section VII, subsection 3 of these procedures.

VI. Conflict of Interest

1. Any person involved in the application of any of the provisions or procedures under this policy shall, on the grounds of conflict of interest or reasonable apprehension of bias, immediately declare any such conflict of interest or bias to the parties, to the Vice-President (Resources & Operations) or designate and to the employee representative, if applicable. The Vice-President (Resources & Operations) or designate shall forthwith provide a replacement for the person who has made the declaration.

2. Any party who objects to the participation of any person in the application of the provisions or procedures under this policy on the grounds of conflict of interest or reasonable apprehension of bias may inform the Vice-President (Resources & Operations) or designate that he or she wishes that person to be replaced, stating his or her reasons. The Vice-President (Resources & Operations) or designate shall also immediately inform the person named in the declaration, and he or she shall be given a reasonable opportunity to respond to it. The Vice-President (Resources & Operations) at his/her sole discretion can appoint a replacement.

VII Procedure for Reporting Incidents and Complaints of Discrimination and/or Harassment

1. Any individual who believes that he or she has been subjected to, or has witnessed, behaviour that is contrary to this Policy, should immediately report his or her concerns to or the incident to the HRO.

1.01 If an individual seeks assistance with a matter relating to discrimination or harassment from someone other than the HRO, the person shall be

advised to contact the HRO. In addition, the person being asked for assistance should also contact EHRS to advise of the incident reported. The HRO will be responsible for acting on the information received.

1.02 The HRO shall provide a confidential consultation to discuss concerns and/or incidents which may be encompassed by this policy

1.03 If the HRO determines that the facts alleged, if proven, would constitute discrimination or harassment under this policy, the HRO will advise the individual that s/he can choose from the following two options:

a. Request Alternate Resolution; or

b. File a Complaint and Request Investigation

2. Option A. Request for Alternate Resolution

2.01 Alternate resolution refers, generally, to options *other than* a complaint process. It is a problem-solving approach which has the goal of achieving a resolution satisfactory to all parties. Alternate resolution is generally not appropriate where one of the parties desires a formal procedure which may result in a decision imposing corrective, preventive, remedial or disciplinary consequences.

2.02 Each situation is unique and it is necessary for the HRO to have flexibility in determining the most appropriate options to attempt to reach a resolution. In order for the alternate resolution to proceed, all parties must agree to participate in the process. Some examples of alternate resolution include:

- Facilitated discussion
- Mediation
- Education

2.03 The HRO retains the discretion to approve a request for alternate resolution based on whether:

a. the request is made within 6 months of the date of the last incident;
b. the matter is within the jurisdiction of the University, i.e., involves members of the University community; and
c. the issues to be addressed through alternate resolution are within the scope of the Policy, i.e., alleging discrimination or harassment.

2.04 In addition, there may arise circumstances where, in the opinion of the HRO, alternate resolution is not a viable option. Such circumstances include, but are not limited to, situations where:

a. there is a safety risk to either or both of the parties;

b. there is significant power imbalance between the parties;
c. the remedy sought by one party is of a monetary or a punitive nature; or
d. the prospects of resolution appear to be unlikely.

2.05 The HRO may, at any time, refuse to continue alternate resolution proceedings based on information or concerns related to the factors outlined at clauses 2.03 and 2.04 of this section. Where alternate resolution is refused or terminated, the HRO shall provide reasons for his or her decision, if requested.

2.06 Alternate resolution proceedings shall be completed within 20 working days of receiving the request for alternate resolution. This time period may be extended upon agreement among the HRO and involved party(ies), to a maximum of 40 working days.

2.07 If alternate resolution proceedings do not result in settlement of all issues, the HRO shall advise all involved parties of the option to file a Complaint and Request for Investigation.

2.08 If a resolution consistent with the terms of this Policy and any applicable legislation (e.g., the *Ontario Human Rights Code* or *Occupational Health and Safety Act*) is achieved, all parties shall sign a statement of the terms of resolution. A copy of the terms of resolution shall be retained in the files of the HRO for a period of 5 years and shall not be placed in official student or employee files. Files will be destroyed, in a confidential manner, after the five year period.

3. Option B: Complaint and Request for Investigation

3.01 A complaint may be submitted within 12 months of the latest alleged incident of discrimination and/or harassment directly to the AVP-HR (or designate).

3.02 The complaint must be in writing and include:

a. the name(s) of the Complainant(s);
b. the name(s) of the Respondent(s);
c. date, time and place of the incident(s); and
d. any relevant information or evidence to the support the allegation including names of witnesses;

e. sufficient information for the Respondent(s) to be able to respond.

3.03 Upon receipt of the complaint, and prior to commencing any investigatory action the AVP-HR (or designate) shall determine whether the complaint may go forward based on the following criteria:

a. the complaint was received within 12 months of the latest alleged incident;
b. the matter is within the jurisdiction of the University, i.e., involving employees and/or students of the University;
c. the allegations are within the scope of this policy; and
d. the allegation contains sufficient information for the Respondent(s) to be able to respond.

3.04 Where the AVP-HR, or designate, determines that the complaint may go forward, he/she shall:

a. determine which interim measures, if any, are required during the complaint and investigation process.

b. appoint an internal or external investigator, to prepare a fact finding report in which the investigator shall review the complaint and determine whether discrimination and/or harassment has been established. In appointing an investigator, the AVP-HR is responsible for the ensuring that the investigator has relevant experience in such investigations and does not have a conflict of interest in the matter under review. The fact finding report is provided to AVP-HR.

3.05 The Employer-approved costs of the External Investigator shall be borne by the Employer.

3.06 Within ten (10) working days of the investigator's appointment, the Respondent shall be provided, by registered mail or equivalent, a copy of the complaint, including any and all allegations. The Respondent shall be provided the opportunity to respond to the complaint within ten (10) working days of receipt. Any written reply shall be provided to the Complainant. The Complainant and Respondent will be required to participate in the investigation. Where the Complainant(s) fail(s) to participate in an investigation, the Complaint shall be deemed withdrawn. Where a Respondent fails to participate, the investigation, and any subsequent findings, may proceed in absentia.

3.07 Where appropriate, discipline will be in accordance with the appropriate collective or employee agreement or the Student Code of Conduct.

VIII Retention of Files

All documents relating to a complaint filed according to section 8 shall be retained in confidence for ten (10) years in the Office of Equity & Human Rights Services. Such files in the Office of Equity & Human Rights Services may only be accessed by the Human Rights Officer or the AVP-HR. Files will be destroyed, in a confidential manner, after the ten-year period.