

University of Prince Edward Island Policy		Policy No. govbrdgnl0009	Revision No. 2 (SM)
Policy Title Fair Treatment Policy		Page 1 of 16	
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Responsibility Fair Treatment Officer		Access W	

1 Purpose

- 1.1 The University of Prince Edward Island is committed to providing a community that affirms and promotes the dignity of human beings and to providing a community, which is fair and equitable and free of harassment or perceived harassment, discrimination and differential treatment.
- 1.2 This Policy promotes the education of the University Community to the principle of an environment free from harassment, discrimination and differential treatment. In addition it promotes education of the University Community as to what constitutes Harassment, Discrimination and Differential Treatment. It also provides a forum that is confidential and sensitive to identify and address any alleged cases of Harassment, Discrimination and Differential Treatment.

2. Definitions

- 2.1 In this Policy the following definitions apply:
- 2.1.1 "Board of Governors" means the Board of Governors of the University of Prince Edward Island.
- 2.1.2 "Campus" means on and off Campus, at University related social functions, travel and communication through all media (printed materials, telephone, internet etc.).
- 2.1.3 "Committee" means the Fair Treatment Advisory Committee established by the President as defined in section 9 of this Policy.
- 2.1.4 "Complainant" means any person who seeks recourse pursuant to this Policy as someone who has been subjected to Harassment, Discrimination or Differential Treatment, or who is aware of situations or incidents, which may be having a discriminatory and adverse impact upon another member(s) of the University Community.
- 2.1.5 "Days" means business days. Weekend and statutory holidays are not included in calculating the number of days referred to in this Policy.
- 2.1.6 "Differential Treatment" has the meaning set out in Appendix I.
- 2.1.7 "Discrimination" has the meaning set out in Appendix I.
- 2.1.8 "Employer" means the Board of Governors of the University of Prince Edward Island
- 2.1.9 "Formal Complaint" means a signed and dated written statement of allegations of Harassment, Discrimination or Differential Treatment submitted by the Complainant to the Officer that includes a detailed

account of the alleged conduct on the part of the Respondent and a request to the Officer to have the Complaint investigated and decided.

- 2.1.10 “Harassment” has the meaning set out in Appendix I.
- 2.1.11 “Informal Complaint” means an oral or written statement alleging Harassment, Discrimination or Differential Treatment which is discussed with the Officer but does not contain a detailed account of the alleged conduct and does not contain a request to have the Complaint investigated and decided.
- 2.1.12 “Investigator” means the Fair Treatment Officer or a qualified ~~internal or~~ external individual who conducts an objective examination of the circumstances relevant to a workplace harassment or discrimination complaint. An investigation may involve interviewing and obtaining signed statements from complainants, respondents, and witnesses, as well as a review of physical evidence such as documents or emails.
- 2.1.13 “Mediation” means a process used to resolve conflict by having a neutral person help the disputing parties arrive at a mutually acceptable solution.
- 2.1.14 “Officer” means the position of the Fair Treatment Officer, a position that exists to support and implement the provisions contained in this Policy. The Officer’s roles and responsibilities are outlined in section 8 of this Policy.
- 2.1.15 “Policy” means the Fair Treatment Policy.
- 2.1.16 “Power Differential” means the difference in power between persons in positions of authority and those individuals in subordinate positions that result in a vulnerability on the part of the subordinate.
- 2.1.17 “President” means President of UPEI.
- 2.1.18 “Reasonable Person Test” means an assessment of responsibility that takes into account not only what the Complainant and Respondent experienced, knew, or understood about one another, but also what a reasonable person in each of their circumstances would or ought to have experienced, known, or understood.
- 2.1.19 “Respondent” means any person against whom a Complaint of Harassment, Discrimination or Differential Treatment has been made pursuant to this Policy.
- 2.1.20 “Senior Administrative Officer” means Vice President or Dean
- 2.1.21 “Senior Management Group” means the committee of senior managers chaired by the President, and normally consisting of the President, Vice Presidents, Deans and the University Librarian.
- 2.1.22 “University” means the University of Prince Edward Island.
- 2.1.23 “University Community” means the students, staff and faculty of the University and visitors on Campus, including contractors and service providers

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3 Scope

- 3.1 This Policy applies to the University Community.
- 3.2 This Policy applies to all University activities. A University activity includes but is not limited to University work or academic placements on and off Campus,

University related social functions, travel and communication through all media (printed materials, telephone, internet etc.).

- 3.3 Nothing in this Policy is intended to conflict with Human Rights legislation or any collective agreements.

4 Authority

- 4.1 This Policy is established and authorized by the University's Board of Governors.

5 Responsibility

- 5.1 The President shall appoint an Officer who shall be responsible for the implementation of this Policy under the supervision of the Senior Administrative Officer.
- 5.2 While it is the employer's responsibility to maintain and promote an environment that is free of Discrimination, Harassment and Differential Treatment, the Employer expects all members of the University Community to cooperate in this endeavour.
- 5.3 Senior administrators and those with supervisory responsibilities have a responsibility to respond promptly to incidents of discrimination and harassment, whether or not a complaint has been filed and to exercise authority to prevent the repetition of such behaviour.

6 Policy

- 6.1 The execution of this Policy is intended to prevent issues of Discrimination, Harassment and Differential Treatment and affirm that all members of the University Community have the right to participate in activities at the University without fear of Discrimination, Harassment or Differential Treatment.
- 6.2 Members of the University Community are expected to uphold the integrity of this Policy and to invoke its provisions in a responsible manner. All persons within the University who are affected by this Policy, particularly the parties to a Complaint, are expected to preserve the degree of confidentiality necessary to ensure the integrity of the Policy, the process described in the Policy, and congenial and collegial relations among members of the University Community.
- 6.2.1 Confidentiality is not the same as anonymity. For a Complaint to go forward to mediation or investigation and decision, the identity of the Complainant and the details of the Complaint must be released to the Officer, the Respondent, and those involved in the application of the Policy and associated procedures.
- 6.2.2 Terms of confidentiality, including the need to disclose information that restores a unit or classroom to effective functioning, may be agreed on in informal or mediation agreements between the Complainant and Respondent.

- 6.3 The goals of this Policy are:
 - 6.3.1 to educate about Harassment, Discrimination and Differential Treatment in the University Community;
 - 6.3.2 to prevent Harassment, Discrimination and Differential Treatment; and
 - 6.3.3 to provide fair procedures for handling complaints when they do occur.
- 6.4 This Policy is to be interpreted in a way that is consistent with these goals, with general principles of fairness, and with the responsible exercise of academic freedom.
- 6.5 All allegations of Harassment, Discrimination or Differential Treatment reported to the University shall be dealt with by the University in accordance with this Policy.

7 Fundamental Principles

- 7.1 Educating and informing the University Community are fundamental to the prevention of Harassment, Discrimination and Differential Treatment.
- 7.2 The University Community is committed to academic freedom and to freedom of expression and association and to creating an environment where students and teaching and non-teaching staff can engage in free inquiry and open discussion of all issues. Neither this Policy in general, nor its definitions in particular, are to be applied in such a way as to detract from the right of employees and students to engage in frank discussion of a potentially controversial nature such as discussions relating to age, race, politics, religion, sex and sexual orientation. The Officer is obliged to uphold academic freedom, and freedom of expression and association. An academic and free community must also include freedom of movement and freedom of access to facilities and resources without fear of Harassment, Discrimination or Differential Treatment.
- 7.3 All reasonable attempts shall be made by all parties to resolve allegations of Harassment, Discrimination or Differential Treatment before a Formal Complaint is made. In resolving same, general principles of fairness shall apply.
- 7.4 This Policy shall not be interpreted, administered, or applied in such a way as to detract from the right and obligation of those in supervisory roles to manage and correct employees and students in accordance with collective agreements or applicable University policies and procedures. Conversely, an obligation to manage or correct others is not an excuse for actions that may constitute Harassment, Discrimination or Differential Treatment.
- 7.5 Contractors (including employers of co-op students) and service providers, their employees and agents are also expected to conduct themselves in any University activity in a manner consistent with this Policy. Allegations of Harassment, Discrimination and Differential Treatment against such persons are covered under this Policy. Contractors and service providers shall be provided notice of and be given access to this Policy prior to entering into a contract.

- 7.6 All members of the University Community shall make best efforts to ensure that visitors to the University follow the principles of this policy and are encouraged to report any violations by such visitors in accordance with this policy.
- 7.7 Those holding positions of authority or power differential shall not abuse the power with which they are entrusted.
- 7.8 All members of the University Community shall be treated equitably under this Policy.
- 7.9 Harassment, Discrimination or Differential Treatment that occurs on-Campus, off-Campus at University-related social functions, in the course of work or academic assignments/placements off-Campus, in the course of work or academic assignments or University-related travel, by telephone and/or by other means of electronic communication is covered by this Policy.
- 7.10 The Officer shall be responsible for determining if a Complaint falls within the scope of this Policy and shall ensure that, when a Complaint is determined to fall within the scope of this Policy, an investigation is conducted into the alleged act of Harassment, Discrimination or Differential Treatment whether initiated as an Informal Complaint or through the Formal Complaint process.
- 7.11 The fact that someone does not intend to harass or discriminate is no defense to a Complaint. Regardless of intent, it is the effect and characteristics of the behaviour that shall determine whether the behaviour constitutes Harassment, Discrimination or Differential Treatment.
- 7.12 A personal, intimate relationship where one has control over the employment or educational status of another may give rise to a reasonable apprehension of bias between the two individuals and may be perceived as conferring an unfair advantage upon one or subject the other to an unfair disadvantage. This type of relationship may create a negative work or study environment for others and give rise to a complaint under this policy. If a charge of sexual harassment, personal harassment, and/or discrimination is subsequently lodged, it will be extremely difficult to defend the conduct on grounds of mutual consent and the burden of proof that the relationship was consensual rests with the Respondent.

The individual who is in the position of control over the employment or educational status shall disclose this personal, intimate relationship in writing to his or her Dean, Director, Senior Administrative Officer, Department Chair or Supervisor prior to the commencement of any supervisory or evaluative relationship or as soon as possible after the relationship has started.

- 7.13 All judgments required by the Policy are subject to the Reasonable Person Test.

- 7.14 Malicious Complaints or inappropriate breaches of confidentiality shall be considered violations of this Policy. Any individual or group that makes a frivolous, vexatious, false or bad faith Complaint pursuant to this Policy for the purpose of harming another individual or group is in breach of this Policy and will be dealt with according to their collective agreement or other appropriate means.
- 7.15 The Officer is not responsible for monitoring or policing the Campus for issues relating to this Policy.
- 7.16 Any willful action or inaction that obstructs the application of the processes related to this Policy, or breaks an undertaking or agreement entered into as a result of a Complaint resolution, may result in an investigation and decision.
- 7.17 Retaliation against anyone involved or thought to be involved in an Informal Complaint or Formal Complaint is prohibited. Retaliation itself may result in a Harassment, Discrimination or Differential Treatment investigation and decision. An investigation may occur whether the Complaint, which was the subject of the retaliation, was substantiated or unsubstantiated. Encouraging others to retaliate is also a violation of this Policy.
- 7.17.1 Examples of retaliation shall include but shall not be limited to: unfair grading; unfair evaluation; ridiculing or name calling in either public or private situations; intentional exclusion from work related activities without reasonable justification; oral or written threats or bribes; or further harassment of any nature.

7.17.2 All persons involved in these procedures shall report threats and concerns of retaliation to the Officer and/or their Dean, Director, Senior Administrative Officer, Department Chair or Supervisor immediately.

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8 Fair Treatment Officer Roles and Responsibilities

The Officer shall:

- 8.1 Inform all members of the University Community about the Policy;
- 8.2 Establish and conduct an educational program within the University to educate the University Community on all aspects of Harassment, Discrimination and Differential Treatment;
- 8.3 Facilitate the enquiry into alleged cases of Harassment, Discrimination and Differential Treatment, which shall include but is not limited to:
 - 8.3.1 determining if a Complaint falls within the scope of the Policy;
 - 8.3.2 establishing a liaison with the victims of Harassment, Discrimination and/or Differential Treatment to ensure there are no occurrences of recrimination;
 - 8.3.3 facilitating Informal Complaint resolution when appropriate;
 - 8.3.4 initiating the Formal Complaint resolution process when appropriate;
 - 8.3.5 maintaining confidentiality of records, except as otherwise required by law;
 - 8.3.6 coordinating support services for those who have experienced Harassment, Discrimination and/or Differential Treatment by drawing on all available resources both external to and within the University;
 - 8.3.7 investigating and attempting to resolve alleged cases of harassment, discrimination or differential treatment or selecting an alternative person in cases of conflict of interest or when the Officer cannot expeditiously perform the tasks.
 - 8.3.8 deciding, in formal investigations, if one or two investigators should conduct the investigations.
 - 8.3.9 monitoring the effectiveness of this Policy;
 - 8.3.10 recommending revisions to the Policy to the President;
 - 8.3.11 reporting to the President once each year, subject to restraints of confidentiality.

9 Fair Treatment Advisory Committee

- 9.1 The President, in consultation with stakeholders shall constitute a Fair Treatment Advisory Committee (the "Committee") with a mandate to offer advice to the Officer on the administration of the Policy.
- 9.2 The Committee shall advise the Officer in the areas of education and interpretation of the Policy.
- 9.3 The Committee shall have no involvement in any aspect of Complaint resolution, either an Informal Complaint or Formal Complaint.
- 9.4 The Committee shall consist of:
 - 9.4.1 two members of the Faculty Association;
 - 9.4.2 two non-academic staff;

- 9.4.3 one undergraduate student; and
- 9.4.4 one graduate student.
- 9.4.5 Fair Treatment Officer (*ex officio*)

9.5 Committee members shall serve for a three-year term, except for student representatives who shall serve for a two-year term. The Committee shall select a committee member to serve, as the Chair and establish the terms of reference.

10 Reporting and Complaint Resolution Procedures

- 10.1 A person who believes she or he is the subject of Harassment, Discrimination or Differential Treatment is encouraged, if reasonably possible to do so, to make a direct request to the person who is engaging in the behaviour to cease the offensive actions. If the request is unsuccessful, or does not result in a positive change of a sufficient magnitude, or if making the request is not reasonable, he or she may seek help under the provisions of this Policy.
- 10.2 If Harassment, Discrimination or Differential Treatment is observed, individuals are encouraged to offer support to the party(ies) and/or encourage the party(ies) to contact the Officer. An individual may also bring the observed Harassment, Discrimination or Differential Treatment to the attention of their Supervisor.
- 10.3 Anyone may seek, anonymously, the advice and assistance of the Officer. However, in order to proceed beyond advice, the process must involve the disclosure of the Complainant's identity and associated details of the Complaint to the Respondent.
- 10.4 If a person chooses to make a Complaint she or he shall contact the Officer who shall guide the individual to the best course of action that may include but shall not be limited to the following:
 - consultation with the Respondent;
 - consultation with the Department Chair;
 - consultation with a Director and/or Senior Administrative Officer;
 - Mediation; or
 - Formal Complaint process.
- 10.5 Where the Officer determines that a Complaint does not fall within the scope of the Policy, the Officer shall direct the Complainant to seek recourse through their Supervisor, their collective agreements or other appropriate means as may be available to them.
- 10.6 A Complaint may be lodged despite the fact that there may appear to have been consent by the Complainant to the conduct or comment in question.
- 10.7 A friend or advisor or colleague may assist and accompany a Complainant throughout the Complaint process.
- 10.8 Members of unions and employee associations have all rights to representation as may be conferred by their collective agreements or contracts.

- 10.9 The Officer, Complainant or Respondent may elect to discontinue the Informal Complaint process or Mediation procedures at any time.
- 10.10 Complainants are encouraged to report their concerns as soon as possible after the alleged conduct. Only those Complaints lodged by non-students within one (1) year of an event, or in the case of a series of events, the last event in a series will be processed. Students have up to one (1) year after leaving the University to lodge a Complaint regarding any alleged conduct that occurred during their time as a student at the University. Based on exceptional circumstances, the Officer may extend procedural time limits imposed by this Policy.
- 10.11 When a Senior Administrative Officer, Department Chair, or Supervisor becomes a Complainant or Respondent, she or he surrenders any rights or responsibilities assigned to administrators, which affect the implementation of this Policy.
- 10.12 Either party to a Complaint may object to the participation of a person in the investigation or Mediation on grounds of conflict of interest or reasonable apprehension of bias. Objections over who conducts an investigation or Mediation must be substantiated and not used as a tactic to slow down or stall an investigative process and shall be decided by the Fair Treatment Officer
- 10.13 Where the objection relates to the participation of the Officer, the Officer shall abstain from involvement in the Complaint until such time as the appropriate Senior Administrative Officer determines the issue. If it is determined that the Officer is in a conflict of interest or there is a reasonable apprehension of bias, the appropriate Senior Administrative Officer shall select a qualified alternate person to act as Officer.
- 10.14 Employees who participate in the procedures outlined in this Policy shall be given release time to consult with the Officer and attend hearings as necessary. Students shall be assisted in attempting to adjust schedules as necessary to attend formal hearings.
- 10.15 **Informal Complaint Resolution**
If the Officer determines that an Informal Complaint falls within the scope of this Policy, every reasonable effort shall be made to seek informal resolution within twenty (20) days of the initiation of the Complaint, or in the case of students, before the end of the term if less than one month away.

The Officer may establish his or her own procedures with respect to an Informal Complaint resolution.

A copy of any agreement reached during an Informal Complaint resolution shall be provided to each of the parties and to the Officer, and shall remain confidential. No record of the Informal Complaint resolution shall be entered into an employee or student file. A record of the Informal Complaint resolution agreement shall be kept in the office of the Officer for seven years and then destroyed.

10.16 **Formal Complaint Process**

10.16.1 At any time the Complainant has the right to initiate a Formal Complaint process by submitting a Formal Complaint to the Officer.

10.16.2 Upon receiving a Formal Complaint, the Officer shall determine whether the Complaint falls within the scope of the Policy. If the Officer determines that the alleged conduct does not fall within the scope of this Policy, the Officer shall inform the Complainant of the reasons, in writing.

10.16.3 If the Officer determines that the Formal Complaint falls within the scope of this Policy, the Officer will conduct the investigation of complaints unless there is a conflict of interest, or the Fair Treatment Officer elects to utilize another investigator. If the Officer elects to select a qualified External Investigator, the Officer shall deliver a copy of the Formal Complaint to the External Investigator and the Respondent.

10.16.4 Once a Formal Complaint process has begun, where reasonably possible each successive step shall begin within ten (10) days of the conclusion of the previous step until the Complaint is resolved.

10.16.5 The Officer shall notify, only to the extent required, the appropriate Dean, Director, Senior Administrative Officer and Department Chair (for the Complainant and the Respondent) of the request for a Formal Complaint resolution.

10.16.6 The Respondent has the right to respond to the Formal Complaint in writing to the Investigator within a reasonable amount of time but no later than ten (10) days from the date of the receipt of the Formal Complaint.

The Respondent may:

- 10.16.6.1 acknowledge or deny the validity of the Formal Complaint in whole or in part;
- 10.16.6.2 provide new or additional information;
- 10.16.6.3 propose a resolution of the Formal Complaint;
- 10.16.6.4 choose not to respond to the Formal Complaint.

10.16.7 If the Respondent does not submit a response, the investigation and decision process shall still proceed.

10.16.8 The Investigator shall deliver a copy of the Respondent's reply, if any, to the Complainant. The Complainant may:

- 10.16.8.1 accept the reply as full resolution of the Formal Complaint;
- 10.16.8.2 propose a counter-resolution to be presented back to the Respondent; or
- 10.16.8.3 choose to proceed with an investigation and decision.

- 10.16.9 In response to the foregoing, the Investigator shall put into effect the appropriate procedures which may include a recommendation that the parties participate in Mediation or proceed to a full investigation.
- 10.16.10 **Investigation Process**
The Investigator shall conduct the necessary investigation within the framework of “procedural fairness” which includes each party’s right:
- 10.16.10.1 to know, understand, and respond to all allegations;
 - 10.16.10.2 to provide information related to the alleged conduct;
 - 10.16.10.3 to request the interviewing of witnesses; and
 - 10.16.10.4 to respond to all relevant information provided by the witnesses.
- 10.16.11 The investigator will interview all potential witnesses
- 10.16.12 The Investigator may establish his or her own rules of procedure.
- 10.16.13 The Investigator may accept any evidence that she or he considers appropriate, and is not bound by the rules of evidence.
- 10.16.14 At any time, the Complainant may choose to withdraw from the Formal Complaint proceedings. However, the Officer and/or the Investigator may decide to proceed, taking into account the need for protection of the Complainant and witnesses against retaliation, the need for due process on the part of Respondent, and the best interest of the University Community.
- 10.16.15 The Investigator shall submit a final report to the designated Senior Administrative Officer the Complainant and the Respondent within forty (40) days of the start of the investigation.
- The Investigator’s final report of the investigation shall include the following:
- 10.16.14.1 a summary statement about the background of the case;
 - 10.16.14.2 a summary description of the Complainant’s allegations and the Respondent’s response;
 - 10.16.14.3 a summary of the process followed in the investigation;
 - 10.16.14.4 a summary of all statements received by the Investigator;
 - 10.16.14.5 any pertinent documentation;
 - 10.16.14.6 an opinion as to whether the allegations have been proven, based on the balance of probabilities;
 - 10.16.14.7 if the allegations are determined to have been proven, an opinion as to whether there were mitigating or aggravating circumstances affecting either party; and

10.16.14.8 recommendations for remedial action or sanctions.

10.17 **Mediation**

- 10.17.1 Any time after an Informal Complaint or a Formal Complaint has been received, the parties may choose to attempt to resolve the Complaint through a process of Mediation, provided that all parties consent to such a process.
- 10.17.2 The Officer, in consultation with the Respondent and the Complainant shall select a Mediator.
- 10.17.3 Mediation will begin within ten (10) Days of the selection of the mediator(s). Appointed Mediators and the format of the mediation process must be acceptable to both the Complainant and the Respondent.
- 10.17.4 The mediated settlement shall take into consideration and be implemented within the parameters of the policies of the University and/or the provisions of any collective agreement as may be applicable.

11 Decision, Remedial Actions and Sanctions

- 11.1 The disposition of the Complaint shall be determined by the Senior Administrative Officer, including sending the recommendation for remedial or disciplinary action to the appropriate Dean, Director, Senior Administrative Officer or Department Chair or other appropriate individual.
- 11.2 If a person is a member of a bargaining unit, any formal recommendation for remedial or disciplinary action shall be made in accordance with the relevant provisions of the collective agreement.
- 11.3 Discipline shall be appropriate to the offense and relevant circumstances of the case.

12 Appeal Process

- 12.1 The Complainant or Respondent may appeal the disposition of a Complaint as follows:
 - 12.1.1 In the case of unionized faculty and staff, the matter may be grieved in accordance with the procedures set out in the appropriate collective agreement.
 - 12.1.2 In the case of a student or an employee not covered by a collective agreement, or any other individual falling within the scope of this Policy, the matter may be appealed through the appeal process defined below. Only one appeal per case will be accepted from each party.
 - 12.1.3 All appeals must be submitted in writing to the designated Senior Administrative Officer within ten (10) days of receipt of the original decision. The written appeal must specify the grounds and nature of the appeal.

12.1.4 The designated Senior Administrative Officer shall select one (1) member of Senior Management Group, not involved in the original decision, to compose an Appeals Committee consisting of two Managers or Directors, and one Employee or Student. The Appeals Committee shall be charged with hearing the appeal and issuing a binding decision.

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12.1.5 The appeal shall not constitute a new investigation of the allegations and the grounds for the appeal shall be limited to errors of fact, errors of law, errors of mixed fact and law and new and relevant evidence that was not available at the original investigation.

12.1.6 The Appeals Committee shall establish its own procedure for hearing, considering and deciding the appeal.

12.1.7 The disposition of the appeal by the Appeals Committee shall be final and binding upon the parties.

13 General Policy Provisions

13.1 Record Keeping

13.1.1 Records are used only for the purpose for which they were created and shall be retained by the Officer as the property of the University. Case records shall be maintained in accordance with the retention policy of the Prince Edward Island Human Rights Commission.

13.1.2 In the case where the decision has involved an employment action or sanction, documentation of those outcomes, exclusive of information concerning specifics of the Complaint shall be placed on the official file of the student or employee.

13.2 Policy Review

13.2.1 The President, in consultation with stakeholders shall constitute a committee composed of interested parties to review this Policy every three years (hereinafter referred to as the "Policy Review Committee"). The parties may include representatives of a broad cross section of the University Community such as: the Board of Governors, administration, students, and employees. The Policy Review Committee may receive recommendations from the appropriate interest groups. The President may elect to involve health professionals, community representatives or other interested groups in the review process as resource persons. The Officer would also be a resource to the Policy Review Committee

13.2.2 Approval and implementation of any changes recommended by the Policy Review Committee shall be carried out in accordance with the provisions of the applicable collective agreements.

Appendix I –

The following definitions shall be applied in this Policy:

Harassment: The University defines "Harassment" within any University-related context as an intended or unintended incident, disrespectful comment, display or behavior that demeans, belittles, humiliates, embarrasses, degrades or attempts to exclude; that is known or ought reasonably to be known to be unwelcome and/or offensive; and which adversely affects the employment or academic status of the individual.

Harassment can take many forms and includes Sexual Harassment or Personal Harassment. These definitions shall be interpreted and applied consistently with the accepted standards of mature behaviour, academic freedom and freedom of expression.

Sexual Harassment refers to all types of unwanted sexual attention, which adversely affects the working, living or learning environment. It may occur between males and females, or between members of the same sex. It may occur when there is a difference of status (faculty/student, supervisor/employee) or between persons of the same status (faculty/faculty, student/student), and may include but is not limited to:

- Any conduct, comment, gesture or contact of a sexual nature that is likely to cause offence or humiliation to any member of the University Community to whom such conduct, comment, gesture or contact is directed; or
- Any conduct, comment, gesture or contact of a sexual nature that might, on reasonable grounds, be perceived by a member of the University Community, to whom it is directed, as placing a condition of a sexual nature on employment, academic success or any opportunity for training, promotion, advancement or other reward; or retaliation for refusal to comply with a request of a sexual nature; or
- Behaviour and remarks of a sexual nature, when such conduct has the purpose or effect of creating an intimidating, hostile or offensive environment.

In any University related context, Sexual Harassment may be expressed in a number of ways including, but not limited to:

- crude, offensive or sexually suggestive remarks, gender based insults and taunting, sexual gestures or leering, and humor based on stereotypes, directed at a person because of his/her gender or actual or perceived sexual orientation; or
- unwanted and unsolicited sexual advances (including but not limited to innuendoes and suggestive remarks inviting intimacy and sexual contact) and physical contact (including unwanted contact of a sexual nature such as patting, touching, pinching or brushing against, and sexual assault) which takes place in the context of academic, professional or work-related transactions; or
- solicitation of sexual activity by expressed or implied promise of reward or threat of reprisal; or
- coerced sexual relations.

Personal Harassment is behavior directed toward a specific person or persons that would be considered by a reasonable person, to create an intimidating, humiliating, or hostile work or learning environment. Personal Harassment may include but not be limited to:

- physical assault, including pushing, slapping;
- communication that is inappropriately harsh or condemning, abusive and offensive language, threatening gestures, yelling, bullying, ridiculing, using derogatory names, threatening in a manner that negatively impacts University work, studies, or participation in campus life;
- inappropriate comments about personal appearance;
- constant unreasonable criticism about work or academic performance, the allocation of humiliating or demeaning tasks, or the setting of impossible deadlines with unrealistic expectations of work;
- hazing (such as harmful or humiliating initiation rituals); or
- behaviour, whether deliberate or negligent, which denies individuals their dignity and respect, is offensive, embarrassing or humiliating to the individual, isolates an individual or group and adversely affects the working or learning environment.

In most cases this behaviour will have manifested itself through a number of incidents. This does not preclude consideration of a single incident as constituting Personal Harassment.

The following table illustrates what is, what may be, and what is not Personal Harassment:

What generally constitutes Personal Harassment	What may constitute Personal Harassment	What does not constitute Personal Harassment
Serious or repeated rude, degrading, or offensive remarks, such as teasing about a person's physical characteristics or appearance, put-downs or insults.	Criticizing an employee in public.	Allocating work.
Displaying sexist, racist or other offensive pictures, posters, or sending e-mails related to grounds of prohibited discrimination under the Canadian Human Rights legislation.	Exclusion from group activities or assignments.	Following-up on work absences.
Repeatedly singling out an employee for meaningless or dirty jobs that are not part of her/his normal duties.	Statements damaging to a person's reputation.	Requiring performance to job standards.
Threats, intimidation or retaliation against an employee, including one who has expressed concerns about perceived unethical or illegal workplace behaviours.		Taking disciplinary measures. Speaking in or having an abrupt or abrasive manner. Expressing a difference of opinion.

		<p>Exclusion of individuals for a particular job based on specific, <i>bona fide</i> occupational requirements necessary to accomplish the safe and efficient performance of the job.</p> <p>Measures taken against someone who is careless in his or her work, such as in the handling of confidential documents.</p>
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Discrimination. The University adopts the definition of discrimination articulated by the Supreme Court of Canada, i.e. intentional or unintentional, differential treatment for which there is no bona fide and reasonable justification. Such discrimination imposes burdens, obligations, or disadvantages on specific individuals or groups. Currently, “the grounds of discrimination” prohibited by the Prince Edward Island *Human Rights Act* are age, race, colour, creed, ancestry, ethnic or national origin, political belief, religion, marital status, family status, physical or intellectual disability, sex, sexual orientation, or source of income of any person with whom the individual or the class of individuals associates, and, in the case of employment, unrelated criminal convictions. It is the University’s intent to include these grounds in this Policy, and to add any other analogous ground including gender identity. Any grounds of discrimination added in future to the Prince Edward Island *Human Rights Act* are understood to be included in this definition.

It is not considered an infringement of this Policy when a program or policy is designed to ameliorate the conditions of disadvantaged individuals or groups, including those that are disadvantaged including those mentioned above.

Discrimination includes but is not limited to Systemic Discrimination and Institutional Discrimination.

Systemic Discrimination and/or Institutional Discrimination is a form of Discrimination that occurs when policies, practices, or procedures which appear beneficial, equal or neutral, result in Discrimination, or when a series of administrative decisions have unintended consequences that amount to Discrimination.

Differential Treatment occurs when a person, or class of persons, who is identified by a prohibited ground of discrimination, is subject to treatment that has the purpose or effect of imposing burdens, obligations, disadvantages, or preferences on that person or class of persons which are not imposed on others.

Examples of Differential Treatment include, but are not limited to:

- Women not being asked to work overtime because it is assumed that they have family obligations; or
- Persons with disabilities not being asked to do public presentations or answer questions in class because it is assumed that this might embarrass them or cause others to feel uncomfortable.

- Men being preferentially offered overtime work because it is assumed that they are the primary income earners.
- Women faculty not being asked to consider night classes because it is assumed that they might feel unsafe after dark.