

# NIPISSING UNIVERSITY

<b>Policy Category:</b>	Human Resources
<b>Policy Number:</b>	3.9.2021.B
<b>Policy Name:</b>	Respectful Workplace & Learning Environments Policy
<b>Responsible Department:</b>	Human Resources
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## A. PURPOSE

Nipissing University is committed to providing respectful learning and working environments that are free from discrimination and harassment as outlined in the *Occupational Health and Safety Act* (OHSA), the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act (AODA), where all individuals are treated with respect and dignity.

## B. SCOPE

All members of the Nipissing University community, including employees, contractors, volunteers, students and visitors, are responsible for the creation and maintenance of respectful work and learning environments, both on and off campus. This includes any and all Nipissing University events (authorized and unauthorized), travel, research, placements, social media, email, etc.

Contracts with contractors may be subject to cancellation should a breach of this policy occur.

In the case of a student to student complaint, procedures in the Code of Student Rights and Responsibilities shall be followed exhaustively prior to the commencement of proceedings pursuant to this policy.

## C. RELATED POLICIES

If there are concerns/behaviours that are not outlined in this policy, please see the Violence Prevention Policy, the Code of Student Rights & Responsibilities, and/or the Sexual Violence Prevention, Support and Response Policy.

## **D. OVERVIEW**

All acts of harassment and discrimination are strictly prohibited. Every community member must work in compliance with this policy. Nipissing University will hold employees, students and visitors accountable by imposing discipline and other sanctions (up to and including termination, expulsion and/or trespass notices). In doing so, Nipissing University will act in accordance with the rights and obligations that are established by legislation, Board policies, University policies, Senate by-laws and collective agreements. Nipissing University may also initiate criminal or civil proceedings against individuals who engage in workplace harassment.

There will be no reprisals against persons who, in good faith, bring forward a concern or complaint. Such reprisals may also be the subject of a complaint under this policy.

There may be penalties or sanctions for concerns or complaints brought forward under this policy that are vexatious or that are made in bad faith.

## **E. DEFINITIONS**

**Harassment:** Harassment is defined as “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcomed”. This definition is found in both the Ontario Human Rights Code and the Occupational Health and Safety Act.

When assessing whether the behaviour experienced is harassment, it is helpful to consider the components of the definition. Without fulfilling all requirements, the behaviour, while possibly distressing, is not within the scope of this policy. It may be more indicative of an interpersonal conflict. It is important that the behaviour, whether it be harassment or conflict, be addressed.

Harassment may be related to any of the grounds prohibited by the Ontario Human Rights Code (outlined under the Prohibited Conduct section on page 6 of this policy). It can also include comments or conduct by a person in a position of authority which are intimidating, threatening or abusive and may be accompanied by direct or implied threats to the individual's grade(s), status or job. Harassment can also occur between people of similar authority.

Even if a person does not explicitly object to harassing behaviour and/or appears to be going along with the behaviour, it does not mean that the behaviour is acceptable. The behaviour could still be considered harassment.

**A course:** In almost all cases, harassment is a pattern of behaviour occurring over a period of time which has a negative effect on an individual and/or the environment. A single incident can also constitute harassment when it is demonstrated that it has caused a significant effect on an individual and/or the environment.

**Vexatious:** Not having sufficient reason and/or seeking only to annoy or irritate.

**Comment or Conduct:** Behaviours can include conversations, jokes, posters, calendars, name calling, threats, emails, screen savers, etc.

**Known or Ought Reasonably to Be Known:** An individual has indicated behaviour is inappropriate and/or a reasonable third party would feel that the behaviour was inappropriate is considered.

**Unwelcomed:** The behaviour must be unwelcomed to the target or within the environment. There is no requirement that an individual expressly object to unwelcomed behaviour. It is recognized that where harassment is present, it may be difficult to object to a person's behaviour, particularly when that person holds power over another (such as a supervisor, professor, etc.).

**Reprisal:** As defined by the Ontario Human Rights code, a reprisal is an action or threat that is intended as retaliation for claiming or enforcing a right under the Code. A further definition can be found under the Occupational Health and Safety Act, which relates to employees:

No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend or threaten to discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee.

## **F. TYPES OF DISCRIMINATION AND HARASSMENT**

### **Prohibited Conduct**

Discrimination and harassment is prohibited based on the following grounds, as outlined in the Ontario Human Rights Code:

- Age;
- Creed (religion);
- Sex (including pregnancy and breastfeeding);
- Sexual Orientation;
- Gender Identity and Gender Expression;
- Family status;
- Marital status (including the status of being married, single, widowed, divorced, separated, or living in a conjugal relationship outside of marriage, whether in a same sex or opposite sex relationship);
- Disability (including mental, physical, developmental or learning disabilities);
- Race;
- Ancestry;
- Place of origin;
- Ethnic origin;
- Citizenship;
- Colour;
- Record of offences (criminal conviction for a provincial offence, or for an offence for which a pardon has been received);
- Association or relationship with a person identified by one of the above grounds;
- Perception that one of the above grounds applies.

### **Discrimination**

Any form of unequal treatment based on a protected ground listed in the Ontario Human Rights Code is discrimination. Discrimination may be intentional or unintentional. It may involve direct actions that are discriminatory, or it may involve rules, practices or procedures that appear neutral but may disadvantage certain groups of people ("systemic"). Discrimination can be comments, actions or behaviour that result in the unfavourable or adverse treatment or preferential treatment which has the effect of creating or perpetuating prejudice or stereotyping. Examples include refusal to provide goods, services or facilities, exclusion from employment or employment benefits, refusal to work with or to teach, or failure to provide physical access.

### **Systemic Harassment/Discrimination**

Policies, practices, procedures, actions or inactions that appear neutral but have an adverse impact associated with one of the prohibited grounds is systemic harassment/discrimination.

### **Ontario Human Rights Code based Harassment**

One or a series of vexatious comments or conduct related to one or more of the prohibited grounds that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate. Examples include gestures, remarks, jokes, taunts, innuendoes, display of offensive materials, offensive graffiti, threats, verbal abuse, hazing, shunning or exclusion related to the prohibited grounds.

### **Racism/Racial Discrimination**

The Ontario Human Rights Code acknowledges differences between racism and racial discrimination; however, the code does not include fixed definitions of either term. For a comprehensive understanding of the two terms, individuals are encouraged to read the Ontario Human Rights Commission document entitled Policy and Guidelines on Racism and Racial Discrimination. A link to the document is located [here](#).

### **Disability Discrimination**

The Ontario Human Rights Code acknowledges that a disability can cover a broad range and degree of conditions, some visible and some not visible. A disability may have been present from birth, caused by an accident, or developed over time. There can be physical, mental and learning disabilities, mental disorders, hearing or vision disabilities. The code also protects from discrimination because of past, present and perceived disabilities.

### **Sexual and Gender-based Harassment**

- (a) engaging in a course of vexatious comment or conduct against another because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably be known to be unwelcome, offensive, intimidating, hostile or inappropriate.
- (b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to another and the person knows or ought reasonably know that the solicitation or advance is unwelcome.

Examples:

- Gender-related comments about a person's physical characteristics or mannerisms;

- Paternalism based on gender which a person feels undermines their self-respect or position of responsibility;
- Unwelcome physical contact;
- Suggestive or offensive remarks or innuendoes about members of a specific gender;
- Propositions of physical intimacy;
- Gender-related verbal abuse, threats or taunting;
- Leering or inappropriate staring.

### **Workplace Harassment**

Engaging in a course of vexatious comment or conduct against an employee in a workplace which is known or ought reasonably be known to be unwelcome which may not be related to a protected ground under the Ontario Human Rights Code.

### **Bullying**

Bullying is a form of harassment in that it is persistent, offensive, abusive, intimidating or insulting behavior, abuse of power, or unfair, punitive sanctions which make an individual feel threatened, humiliated and/or vulnerable. It is also the misuse of power or position to persistently criticize, humiliate or undermine an individual.

### **Academic Bullying**

Academic bullying is a particular form of bullying which includes asserting a position of intellectual superiority in an aggressive, abusive or offensive manner.

All forms of bullying can include the following:

- Ostracism/exclusion, or conversely, excessive supervision;
- Spreading malicious lies or rumours;
- Verbally abusive behavior such as yelling, insults, threats and/or name calling;
- Threatening or abusive language (oral or written, including voice mail, email, online chats and/or comments posted on websites);
- Repeated or continuous threats to withdraw funding, scholarships or advancement opportunities for reasons unrelated to performance;
- Comments which have the effect of undermining a person's role;
- Excessive criticism of a person's work or their private lives when not related to appropriate evaluation of performance;
- Intrusion by pestering, spying or stalking; and/or
- Posting or displaying of materials, images, and/or graffiti, including by electronic means, which may cause humiliation, offence or embarrassment (except where such display is for academic purposes and is a reasonable exercise of academic freedom and expression).

Bullying is not:

- The reasonable use of management rights in cases of promotion, demotion or suspension;
- The reasonable responsibility of supervisors to conduct performance evaluation, discipline and/or provide constructive criticism to employees;
- Respectfully expressing disagreement or stating a contrary but reasonable point of view; or

- The reasonable exercise of academic freedom, freedom of thought and inquiry, and expression in teaching and research which may result in respectful disagreements regarding beliefs or principles.

### **Negative/Poisoned Environment**

A negative/poisoned environment is a situation in which one comment or a series of comments or conduct related to the prohibited grounds of the Ontario Human Rights Code creates a negative environment for individuals or groups. The comment or conduct must be of a significant nature or degree and have the effect of "poisoning" the work or learning environment. A complainant does not have to be a direct target of prohibited or inappropriate conduct or comment to be adversely affected by a negative or poisoned environment. It can also include conduct or comment that creates and maintains an offensive, hostile, or intimidating climate for learning or work. Examples include exposure to graffiti, signs, cartoons, remarks, and/or exclusion or adverse treatment related to one or more of the prohibited grounds of the Ontario Human Rights Code.

### **Respectful Workplace and Learning Conduct**

Respectful workplace and learning conduct includes being courteous, polite, respectful and considerate towards all individuals, including those with different strengths, roles or opinions. It also includes encouraging and supporting individuals to learn and practice personal conflict resolution skills that support a respectful work and learning environment.

## **G. RESPONSIBILITIES**

Employees, contractors, volunteers, students and visitors are responsible for:

- Treating others with respect;
- Setting an example by respecting the dignity of all employees, students and members of the public;
- Recognizing and refraining from actions that offend, embarrass or humiliate others, whether deliberate or unintentional;
- Ensuring allegations of disrespectful, harassing or discriminatory behaviour are not frivolous or vindictive; and
- Encouraging every member of the Nipissing University community to treat each other with respect.

Supervisors/Department Heads/Deans are responsible for:

- Role modeling acceptable behavior;
- Monitoring and managing unacceptable behaviour;
- Ensuring that measures and procedures are followed and that employees/students have appropriate information;
- Encouraging every member of the Nipissing University community to treat each other with respect;
- Treating each situation as a serious matter;
- Managing the situation towards a resolution between the parties, if possible, with a view of correcting behaviour and preserving long term relationships and safeguarding against further incidents;

- Ensuring there are no reprisals against employees/students for making a complaint or for participating in an investigation;
- Ensuring the situation remains confidential, where appropriate;
- Providing support to students and employees who are experiencing the effects of disrespectful behaviour; and
- Consulting with the Director, Human Resources (or designate) at any time, and if the situation cannot be resolved between the parties.

The Director, Human Resources (or designate) is responsible for:

- Assisting Supervisors/Department Heads/Deans in the consistent application of this policy;
- Consulting with and providing advice to Supervisors/Department Heads/Deans;
- Advising employees/students of their rights and options;
- Receiving complaints and ensuring appropriate action is initiated;
- Conducting investigations, as required;
- Working collaboratively with others involved;
- Promoting awareness of this policy; and
- Ensuring training of this policy is conducted regularly.

## **H. CONFIDENTIALITY**

Information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.

Those involved in dealing with complaints will disclose information only when necessary. Confidentiality, however, does not mean anonymity. In the instance of making a complaint, individuals must realize that the individual who is the source of complaint may be informed of the specific nature of the allegations at the earliest point in the process.

## **I. REPORTING PROCEDURES**

This policy is not intended to discourage or prevent the complainant from exercising any other legal right pursuant to any law. Not every complaint of disrespectful behavior, harassment and/or discrimination warrants a formal investigation. However, in situations where allegations are denied or discipline is likely and/or an informal remedy is insufficient, an investigation may be required. Students can also receive support through Student Development and Services (SDS) throughout the reporting process. If you are a student looking for support or to discuss the process, please reach out to SDS@nipissingu.ca and supports will be provided to navigate the reporting process.

1. If you are comfortable, immediately make it clear to the individual that their behaviour is not welcome. If you are uncomfortable approaching the individual directly and you are an employee, contact your supervisor. If you are uncomfortable approaching the individual directly and you are a student, contact your Dean. If your supervisor/Dean is the alleged harasser, contact the Director, Human Resources. Employees who report to the Director, Human Resources should contact the Vice-President, Finance and Administration.

2. If appropriate, discuss with your supervisor if you are an employee. If appropriate, discuss with your Dean if you are a student. They can assist and offer support in discussions with the individual. Keep a personal record of the details of any alleged incidents, including:
  - date/time;
  - place;
  - name of other person(s) involved;
  - a specific account of what happened – be as detailed as possible;
  - the effect of the incident;
  - names of any witnesses; and
  - any action taken, including any person to whom the incident has been reported and any attempts at personal resolution.

It is important that you record this information as soon as possible after the incident(s) occurs. Where possible, any correspondence relating to the incident should also be kept.

3. The Director, Human Resources will outline and advise the parties of options for resolving the problem including personal resolution, informal resolution or pursuing more formal resolution.
4. The Director, Human Resources will assist the parties to informally resolve matters, as required, and will assist supervisors by providing on-going support.
5. A formal written complaint should be made to the Director, Human Resources if:
  - an attempt at personal resolution is not successful;
  - the behaviour continues;
  - the behaviour is of a more serious nature than can be dealt with by personal resolution/involvement by a supervisor/Dean; or
  - personal resolution/involvement by a supervisor/Dean is not deemed appropriate.
6. If required, the Vice-President, Finance & Administration will appoint an investigation team and coordinate the investigation process in a consistent, timely and fair manner.
7. Investigations will generally include the following:
  - Interviewing the employee/student who has raised the concern (they may be accompanied by a representative/support person);
  - Interviewing the alleged harasser (they may be accompanied by a representative/support person) to present the complaint and hear the response;
  - Interviewing witnesses (witnesses may be accompanied by a representative/ support person);
  - When possible, maintaining confidentiality amongst the individuals involved;
  - Providing the employee/student who has raised the concern and the alleged harasser with a written report outlining the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation; and
  - Recommending an appropriate response to senior management which may include disciplinary action.



All documentation relating to formal written complaints and investigations will be kept in the Human Resources office.

In certain circumstances, it may be deemed appropriate to request the assistance of an external investigator or mediator.

**J. REMEDIES**

Remedies provided for under this Policy are intended:

1. to resolve complaints fairly and acceptably;
2. to recommend appropriate disciplinary measures for individuals who are found to have committed acts of harassment or discrimination; and
3. to prevent acts of harassment or discrimination.

**K. REVIEW PROCESS**

This Policy will be maintained by Human Resources, in consultation with the Joint Health and Safety Committee (JHSC), on an ongoing basis and will be reviewed at least annually. The Vice-President, Finance and Administration (VPFA) may approve non-material changes to the policy. Such revisions shall be in the form of a written notice from the VPFA to the University Secretary and will take effect upon receipt of such notice. Substantive changes to the policy will require approval of the Board of Governors.

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NOTE: This policy replaces the former Harassment & Discrimination Policy [Board Policy] and the Respectful Workplace & Harassment Prevention Policy [University Policy].

**Approved by Board of Governors Resolution #2021-03-04**