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Policy on A Respectful Workplace and Learning Environment

Questions regarding this policy should be addressed to the Office of Administrative responsibility.

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Statement of Commitment

Laurentian University is committed to building a diverse and inclusive community where every person can work and learn in an environment that is supportive of productivity and academic achievement, and respects the dignity and worth of all members of the Laurentian University community. No one, whether an administrator, faculty, staff, student, volunteer, visitor or contractor has to put up with harassment or discrimination at Laurentian University for any reason, at any time.

Given that discrimination and harassment undermine a healthy work and learning environment, Laurentian University has enacted the Policy on a Respectful Workplace and Learning Environment. The goal of this policy is to promote a working and learning environment that is free of discrimination and harassment, to protect the health, safety and security of the University community, to outline rights, responsibilities and types of behaviour which fall within the scope of this policy, and to outline procedures for handling and resolving complaints.

At Laurentian University everyone has the right to:

- an environment that is free from harassment and discrimination;
- file a complaint when the environment is not free from harassment and discrimination;
- be informed of complaints made against them;
- have their complaint investigated pursuant to this policy without fear of embarrassment or reprisal;
- make representation in accordance with the complaint procedures described in this policy;
- be kept informed throughout the process;
- a fair appeal process for both the respondent and complainant;
- confidentiality to the degree possible as outlined in paragraph 1.0 below.

1.0 Confidentiality

Confidentiality is required in all procedures under this policy. Because of the particular sensitivity of discrimination and harassment complaints and their consequences, confidentiality is of the utmost importance and will be maintained at all times, unless the safety of members of our community are at risk or subject to the disclosure requirements under this Policy and/or the *Freedom of Information and Protection of Privacy Act* or any other applicable legislation. Maintaining confidentiality benefits everyone involved in the complaint process. Those making complaints should not discuss the matter other than with the appropriate parties. Those involved in dealing with the complaints will disclose information only where absolutely necessary and the complainant will be consulted before any disclosure of information is made. The importance of confidentiality will be stressed to all those involved in an investigation and everyone will be strictly required not to discuss the complaint with colleagues.

Confidentiality does not mean anonymity. In the instance of acting on a complaint, a fundamental principle is that the respondent must be informed of who has made the allegations, and the specific nature of the allegations, at the earliest possible point in the process.

In limited situations it may be necessary to convey appropriate information to the administration in order for Laurentian University to fulfill its obligation as employer and policy enforcer and to a respondent's bargaining agent where the respondent is covered by the terms of a collective agreement and where authorized by the respondent to do so.

2.0 Definitions

In this policy, where the words **Senior Administration** or **Senior Administrators** are used, it means:

- i.** the President,
- ii.** Vice-President, Administration,
- iii.** University Secretary,
- iv.** Vice-President, Academic (Anglophone Affairs),
- v.** Vice-President, Academic (Francophone Affairs),
- vi.** Executive Director, University Advancement.

In this policy, where the words **Leadership Group** or **Administrator** or **Administration** are used, it means:

- i.** Senior Administrators
- ii.** Deans
- iii.** Directors (non-academic)
- iv.** Director of Academic Native Affairs
- v.** Managers
- vi.** the Registrar,
- vii.** the Associate Vice-presidents
- viii.** the Human Rights Advisor.

In this policy, where the words **Laurentian University Community** are used, it means:

- i. students,
- ii. staff,
- iii. faculty,
- iv. administrators.

In this policy, where the words **Assertive Management Style** are used, it means:

A management style where a manager:

- i. is fair, firm and direct when needed,
- ii. recognizes the rights of others,
- iii. respects and preserves the dignity of those they work with, and
- iv. communicates in a clear and direct manner without threatening, attacking or being hostile.

In this policy, where the word **discrimination** is used, it means:

- i) discrimination under the *Human Rights Code* (the Code),
- ii) systemic discrimination as defined in paragraph 2.4.

In this policy where the word **harassment** is used, it means:

- i) Harassment under the *Human Rights Code* (the Code),
- ii) Sexual Harassment, as defined in paragraph 2.8
- iii) Psychological Harassment (Bullying), as defined in paragraph 2.11

2.1 Discrimination under the *Human Rights Code* (the Code)

Under the Code there is discrimination when there is differential treatment of a person based on: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences (in employment only), marital status, family status or disability.

Discrimination has the effect of imposing burdens, obligations, or disadvantages on such individual or group not imposed on others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of the Laurentian community or society in general.

2.2 Examples of Discrimination

Examples of discrimination include, but are not limited to:

- a) refusing to hire or promote or dismissing a woman because she is or may become pregnant;
- b) refusing a student with a disability, reasonable accommodations required for an exam;
- c) preventing an individual from attending a course, or refusing him or her employment or refusing him or her any other advantage based on a prohibited ground such as sex, race, disability or sexual orientation;
- d) indirect discrimination: for example a receptionist is instructed not to accept a job application from applicants who are from a particular racial or ethnic background.

2.3 Exceptions: Legally Justified Reasons

The following are examples of legally justified reasons for authorizing behaviours that would otherwise be prohibited:

- a) A right under the *Human Rights Code* is not infringed by implementing a special program designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity or that is likely to contribute to the elimination of the infringement of rights under the *Human Rights Code* of Ontario (article 14(1) of the Code).
- b) Dismissing an employee for the sole reason that the person is incapable of performing or fulfilling the essential duties or requirements of the position because of a disability and that no reasonable accommodation* is possible does not infringe his or her rights (article 17(1) of the Ontario *Human Rights Code*). (*Note: Article 17(2) of the Code states that a person will not be found “incapable unless the needs of this person cannot be accommodated without undue hardship on the person responsible for accommodating those needs, considering the cost, outside sources of funding, if any, and health and safety requirements”).
- c) The right to equal treatment under the Code is not infringed by restricting services and facilities because of sex where the use of the services or facilities is restricted to persons of the same sex on the ground of public decency (Article 20(1) of the Code).

2.4 Systemic Discrimination

“Systemic discrimination” occurs when apparently neutral regulations, policies, procedures and practices have an adverse impact associated with one of the prohibited grounds as defined in the *Human Rights Code* of Ontario on individuals or a group of individuals.

2.5 Examples of Systemic Discrimination

Examples of systemic discrimination include but are not limited to:

- a) a policy requiring a height or weight requirement for participation in a school activity or as an employment criterion in a designated trade that is so high that it has the effect of excluding most women;
- b) a practice of constructing buildings without wheelchair access, thereby limiting access to employment or classes for individuals with mobility impairment.

2.6 Harassment under the *Human Rights Code* (the Code)

Under the Code every person has the right to freedom from harassment because of: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences (in employment only), marital status, family status or disability.

Harassment refers to a course of vexatious comment or conduct that is known to be or ought reasonably to be known to be unwelcome/unwanted and that is based on one of the prohibited grounds as defined by the Ontario *Human Rights Code*.

A single act of sufficient severity may also be found to constitute harassment.

2.7 Examples of Harassment under the Code

Examples of harassment under the Code include but are not limited to:

- a) unwelcome remarks, slurs, jokes, taunts, or suggestions about a person’s race, national or ethnic origin, colour, religion, age, sex, marital status, family status, physical or mental disability, sexual orientation, or pardoned conviction;
- b) unwelcome sexual remarks, invitations, or requests (including persistent unwanted contact after the end of a relationship);
- c) displays of sexually explicit, sexist, racist, or other offensive or derogatory material (e.g. posters, emails etc.);
- d) practical jokes that embarrass or insult someone, based on one of the prohibited grounds;

- e) unwanted physical contact such as touching, pinching, patting, grabbing, brushing against another person;
- f) vandalism of personal property.

2.8 Sexual Harassment

“Sexual Harassment” means one or a series of comments or conduct of a gender related or sexual nature that is known or ought reasonably to be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate.

2.9 Examples of Sexual Harassment

Examples of Sexual Harassment include but are not limited to:

- a) Any unwanted attention of a sexually oriented or gender oriented nature directed at an individual or group by another individual or group of the same or opposite sex who knows, or ought reasonably to know, that this attention is unwanted or unwelcome;
- b) Any implied or expressed promise of reward for complying with a sexually oriented request or advance;
- c) Any implied or expressed threat of reprisal for refusing to comply with an implied or expressed sexually-oriented request;
- d) Any behaviour, verbal or physical, of a gender or sexually oriented nature that interferes with the academic or work environment of an individual or group or creates an intimidating or hostile, or offensive atmosphere.

2.10 Relationships Between Members of the University Community

It is however evident that romantic, sexual, and financial relationships may develop between members of the university community. Any member of the university community considering such a relationship should bear in mind that:

- a) In a relationship involving partners, one of whom holds authority over the other, the issue of mutual consent may be in question should a complaint of harassment and/or discrimination arise either during or after the relationship. Such complaints are among the most common on university campuses.
- b) A person engaging in a relationship with a person over whom he or she has the authority to grade papers or examinations, give performance reviews or recommend promotion or termination, or in any other way affect the person's employment or academic standing, should take particular care. Where such a power differential exists, it may be exceedingly difficult to defend against a charge of harassment on the grounds that the relationship was based on consent. The university generally will be unsympathetic to a defense that the relationship was consensual when the facts establish that the accused had the

power to affect the complainant's academic or employment status or future prospects. Even genuinely consensual relationships between faculty members and students may be problematic and result in favouritism or perceptions of favouritism that adversely affect the learning or work environment. Conflicts of interest, even where they do not constitute harassment and/or discrimination should be avoided. Under these circumstances, avoidance would normally involve the person in a position of authority asking to be relieved of such authority. Where such relief is impractical, or harmful to the rights of the less powerful party (e.g. where a professor is the only person competent to supervise a particular thesis), other procedures to ensure fairness must be devised, possibly in consultation with the appropriate department chair, dean or director.

2.11 Psychological Harassment (Bullying)

“Psychological Harassment” means any vexatious behaviour in the form of repeated and hostile or unwelcome/unwanted conduct, comments, actions or gestures that affect an individual’s dignity or psychological or physical integrity and that result in a harmful work or learning environment for the individual. This includes bullying which is persistent, offensive, abusive, intimidating or insulting behaviour, abuse of power and/or unfair punitive sanctions which make the individual feel threatened, humiliated and/or vulnerable, which undermine the individual’s self-confidence and/or reduce the individual’s feelings of self-esteem and self-worth, and which may cause the individual to suffer stress.

Psychological harassment (bullying) need not be based on one of the prohibited grounds listed in the *Human Rights Code* of Ontario.

2.12 Examples of Psychological Harassment (Bullying)

Examples of psychological harassment include but are not limited to:

- a) discrediting a person, spreading rumours, ridiculing him or her, humiliating him or her, calling into question his or her convictions or his or her private life;
- b) preventing a person from expressing himself or herself: constantly interrupting him or her, prohibiting him or her from speaking to others;
- c) no longer talking to him or her at all, denying his or her presence, distancing him or her from others;
- d) destabilizing a person by making fun of his or her convictions, his or her tastes and/or his or her political opinions;
- e) undermining or deliberately impeding a person’s work by withholding necessary information or purposefully giving the wrong information

- f) aggressive behaviour such as finger pointing, standing close to an individual in an aggressive manner, pounding of fist against desk or wall;
- g) verbally abusive behaviour such as yelling, insults, threats and name calling;
- h) spreading malicious rumours or lies;
- i) unreasonably criticizing the performance of an individual;
- j) impeding an individual's efforts at promotions or transfers;
- k) messages, including voice mail, electronic mail, online chats, and comments posted on websites, that are threatening, derisory or defamatory;
- l) hazing or any other type of physical activity that intimidates or threatens a student with an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.

2.13 What Does NOT Constitute Psychological Harassment (Bullying)

Psychological Harassment does **not** include:

- a) legitimate, constructive and fair criticism of a faculty member, staff member or student's performance/behaviour or the legitimate (i.e. not discriminatory, arbitrary, abusive or defamatory) exercise of academic freedom, freedom of thought and inquiry, and expression in teaching and research.
- b) The University will not condone bullying under the guise of "strong management" but, conversely, regards an **assertive management style** as acceptable provided that faculty, staff and students are treated with respect and dignity.

3.0 Rights and Responsibilities of the University Community

Each individual has the right to participate, learn, and work in an environment that promotes equal opportunities and prohibits all forms of harassment and/or discrimination as defined in this policy.

3.1 Laurentian University's Responsibilities

Laurentian University and all members of the university community share the responsibility for providing and maintaining a healthy learning and work environment that is free from harassment and/or discrimination where collaboration, comprehension and mutual respect exist. This means not engaging in, allowing, condoning, or ignoring behaviour contrary to this policy.

3.2 Rights of Faculty, Staff, Students, Volunteers, Visitors and Contractors

Faculty, staff, students, volunteers, visitors and contractors have the right to:

- An environment which supports them in their work and study and which is free from harassment and/or discrimination;
- Access this policy and its procedures for dealing with breaches and complaints;
- Be supported in a sensitive and confidential manner, when addressing breaches and complaints, by members of the University who have been given relevant training;
- Attend training opportunities related to diversity awareness and this policy and procedures.

3.3 Responsibility of Faculty, Staff, Students, Volunteers, Visitors, and Contractors

Faculty, staff, students, volunteers, visitors and contractors have the responsibility as individuals:

- For their own behaviour and actions;
- To recognize and support the right of all individuals to dignity at work and study and to maintain an environment in which this can flourish;
- To familiarize themselves with this policy, which may include attending training appropriate to their position within the University;
- To take the initiative in identifying harassment and/or discrimination and to take reasonable corrective or preventative action in accordance with this policy and its procedures (if they are in a position to do so).

The University has a duty of care under Health and Safety, Employment and Human Rights legislation. Therefore, no member of the Laurentian Community can ignore unacceptable behaviour. All are encouraged to bring to the attention of the appropriate level of management any unacceptable behaviour they might themselves be subjected to or witness. This policy does not inhibit firm but fair management.

3.4 Responsibility of Administrators

Administrators have the responsibility to:

- Communicate this policy to their faculty and staff and encourage all faculty and staff to attend relevant training related to this policy and its procedures.
- Ensure that where it is necessary to take remedial or corrective/disciplinary action against a member of faculty, staff, or administration, or a student, volunteer, visitor, or contractor this is done fairly and in accordance with the disciplinary measures within relevant collective agreements and University procedures.

3.5 Responsibility of Students' Associations

The Students' Associations have the responsibility, with the University, to promote student awareness about their behaviour and their personal responsibilities under this policy and procedures.

4.0 Administration of the Policy

The University recognizes its responsibility to ensure that every person in its community is protected from discrimination and harassment and shall establish mechanisms to give effect to this policy including:

- development and staffing of an Office of Human Rights and
- continuing training and institutional support and assistance to carry out responsibilities under this policy.

4.1 Office of Human Rights

The Office of Human Rights is responsible for:

- Communication of this policy;
- The development and delivery of educational programs aimed at preventing harassment and discrimination as well as informing the university community on this policy;
- Administration of this policy and related procedures;
- Interpretation of this policy, and
- Facilitating informal resolution processes.

Each year a report will be prepared by the Office of Human Rights and made available to the University community concerning the number, type and disposition of cases and on educational and other activities related to the Policy.

4.2 Human Rights Advisor

The University shall maintain the position of Human Rights Advisor. The Human Rights Advisor must have sound knowledge of the applicable laws and procedures as they relate to harassment and discrimination.

The role of the Human Rights Advisor is to:

- Offer support, guidance and advice to the complainant as to whether the alleged behaviour falls within this policy;
- Outline and advise the complainant on options for resolving the problem, including personal resolution, informal resolution using alternative dispute resolution measures, or pursuing more formal resolution;
- Assist the parties to informally resolve matters, as required;
- Appoint an investigation team, as required in this policy, and coordinate the investigation process in a consistent, timely and fair manner;
- Assist and advise those with supervisory responsibilities in the resolution of human rights concerns,
- Make referrals to other University departments, and
- Bring to the attention of those in positions of responsibility any University policy, procedures or practices that appear to discriminate against individuals or groups based on prohibited grounds as defined in the Code.

4.3 Appointment of Human Rights Advisor

The President shall appoint a Human Rights Advisor in accordance with the University's established hiring procedures and practices.

The Human Rights Advisor reports directly to the President.

5.0 Complaint Procedures

All complaints must be initiated within six (6) months (120 working days) of the most recent incident occurring. In extraordinary circumstances and at the sole discretion of the Human Rights Advisor a complaint filed beyond the six month limitation may be considered.

5.1 Informal Resolution

If you believe that you are being harassed or discriminated against, the first thing is to tell the person to stop and tell them that such behaviour is unacceptable, inappropriate or unwelcome. Do so as soon as you are subjected to any unwelcome comments or conduct. Although this may be difficult to do, telling the person you don't like their actions is often enough to stop the behaviour. In a situation where you may be too uncomfortable

to make an approach on your own, you may seek third party assistance for support and advice.

If you believe that someone who is not a member of the University Community e.g. volunteer, contractor, visitor, has harassed or discriminated against you please report the incident(s) to the Human Rights Advisor. Although Laurentian University has limited control over third parties, it will do its best to address the issue and prevent further problems from arising.

If you believe that you have experienced discrimination or harassment, you should keep a personal record of the details or incidents including:

- Date and time
- Place
- Name and status of other person involved
- A specific account of what happened – be as detailed as possible
- The effect of the incident
- Names of any witnesses
- Action taken including any person to whom the incident has been reported and any attempts at personal resolution

Informal resolution will attempt to be conciliatory rather than adversarial. The informal resolution process involves discussing the issues and attempting to develop appropriate solutions. This process is best used in the early stages where people are willing to come to an agreement. Such an agreement may take the form of a clarification of a misunderstanding, an apology, a conflict resolution conference between the parties or an agreed plan of action to avoid future incidents.

Upon contacting the Office of Human Rights, you will be asked to submit written summary/details of any alleged incidents and this will initiate the informal process.

You will then be contacted by the Human Rights Advisor to discuss the issue raised in the complaint.

Following this, the respondent will be contacted to discuss the issues raised in the complaint with the view to resolving the concerns or issues.

5.2 Alternative Dispute Resolution (ADR)

In the first instance, the Office of Human Rights will explore the use of ADR with the parties to resolve the matter. Where the parties agree, the Office of Human Rights will work together with the parties to resolve the matter.

ADR measures can include but are not limited to mediation.

Any information provided during alternative dispute resolution is without prejudice and will not be introduced automatically as evidence in any subsequent investigation or process unless the Human Rights Advisor determines that such information may be relevant to the investigation and shall not prejudice either party.

At the conclusion of any ADR process, and notwithstanding the outcome, each party shall be informed in writing of the result.

5.3 Mediation

Mediation is a collaborative process to produce agreement or resolution. If someone has accused you of harassment and/or discrimination, and you have not been able to resolve the situation with that person informally, mediation is a possible next step.

Mediation may make a formal complaint unnecessary. You can ask for mediation or you may agree, if it is suggested to you. However, you do not have to agree if you think that you are being pressured into something that does not feel right to you.

If you want to work toward a mediated settlement, the Human Rights Advisor will appoint a qualified mediator, from within the organization or from outside it, who is acceptable to both parties.

At the conclusion of mediation if a mutually acceptable resolution is agreed on by the parties, the mediator shall prepare a Resolution Agreement and have it signed by both parties who will each be given a copy.

The Office of Human Rights will work with the parties to implement the terms of the agreement.

Failing resolution of the matter through mediation the complainant shall have the right to either submit a formal complaint or continue with the process of a formal complaint in accordance with this policy.

Any information disclosed in the course of the mediation will not be introduced automatically as evidence in an investigation should there be a formal complaint.

The Office of Human Rights will endeavour to complete an informal resolution process within 12 weeks (60 working days) of the Human Rights Office making contact with the respondent to discuss the matter.

5.4 Formal Resolution

If the complaint cannot be resolved informally or if it is too serious to be dealt with on an informal basis or if informal resolution is deemed not appropriate, a formal written complaint may be filed with the Office of Human Rights to initiate the formal resolution process.

The decision on whether or not to proceed with formal resolution shall be made by the Human Rights Advisor. On receiving a formal complaint, the Human Rights Advisor will determine if:

- The University has jurisdiction;
- The allegations fall within the scope of this policy;
- The most recent alleged incident occurred within the past six (6) months (120 working days);
- There are any safety risks or health concerns that require immediate action.

5.5 Interim Measures

After a complaint is made, the Human Rights Advisor, in consultation with the President, and in her or his absence with General Counsel, will determine if any immediate action or interim measures are required to protect the health, safety and security of the complainant, the respondent, the University, its community or any of its members. These measures may include but are not limited to:

- limiting access to facilities and or areas within a department;
- making arrangements for alternative grading;
- change in reporting relationship or worksite; or
- discontinuing contact between the complainant and the respondent during the period of the proceedings under this policy.

Interim measures, if required, are to be implemented by the appropriate University personnel. Both parties shall be notified of any interim measures to be implemented. Note that any interim measures are not intended as discipline or a transfer within the meaning of any collective agreement or policy. Where any interim action is taken in the course of the investigation, those named will be presumed innocent until a final determination to the contrary is reached under the terms of this policy.

5.6 Rights of Complainant and Respondent

5.6 (a) Rights of Complainant

If you believe that you are being harassed or discriminated against, you have the right to:

- i)** meet with the Human Rights Advisor;
- ii)** file a complaint and have it dealt with promptly, without fear of embarrassment or reprisal;
- iii)** have a person of your choice accompany you during the process;
- iv)** be informed about the progress of your complaint;
- v)** be treated fairly;

- vi) be informed of the type of corrective measures that will result from the complaint.

5.6 (b) Rights of Respondent

If you are the individual against whom allegations have been made under this policy, you have the right to:

- i) meet with the Human Rights Advisor;
- ii) be informed of the complaint and the identity of the complainant and be given a written statement of the official allegations, and the opportunity to respond to them;
- iii) have a person of your choice accompany you during the process;
- iv) be informed about the progress of the complaint;
- v) be treated fairly;
- vi) be informed of the type of corrective measures that will result from a substantiated complaint.

5.7 Informing Complainant and Respondent

If the Office of Human Rights decides not to proceed, the complainant shall be informed in writing. The complainant will also be informed about his or her right to appeal this decision in accordance with the Appeal Procedures described below.

If the Office of Human Rights decides to proceed, the respondent shall be notified within twenty (20) working days of receipt of the formal complaint. The respondent shall be provided with details of the complaint and advised of the procedure to be followed in the resolution of the complaint.

Both the complainant and the respondent will be informed of their rights under this policy.

5.8 Investigation Invoked by Senior Administration

Nothing in this policy precludes senior administration from invoking an investigation in accordance with these procedures in a situation where the University reasonably believes that harassment and/or discrimination may have occurred, even though no person has complained about a violation of this policy.

6.0 The Investigation and Subsequent Action

6.1 Internal Investigators

To make sure that formal complaints can be dealt with in a fair, equitable and consistent manner, an investigation will take place by an internal investigation team. The investigation team will be comprised of three people who have been trained to conduct an investigation according to these procedures. The University will establish a pool of internal investigators to participate in the resolution of complaints. The Office of Human Rights will seek volunteers and nominations on an annual basis from student, staff and faculty groups of the University. Volunteers and nominees will be short listed and selected by a committee composed of a Vice-President, Academic, the University Secretary, the Associate Vice-President, Student Affairs, the Director of Human Resources, a representative from each of the constituency groups: LUSU, LUAPSA, LUFA, USWA, from the student associations and the Human Rights Advisor. In addition, the number of investigators in the pool will be determined by the selection committee, but shall include a minimum of twelve (12) potential investigators. A term within the investigation pool will be three years, renewable annually, and any individual may hold up to five consecutive terms. To avoid the potential for conflict of interest, the following persons are **not** eligible to be investigators under this policy:

- members of senior administration;
- senior managers (i.e. members of Leadership Team);
- members of any union executive and union officials and stewards and members of the union board;
- staff of the Office of Human Rights;
- staff of Human Resources;
- staff of the Department of Residence who are responsible for student discipline issues, including student staff members.

6.2 Training

Those selected as investigators under this policy, will receive training in how to conduct such investigations, as arranged by the Office of Human Rights. The training will be relevant to this policy, timely and will be provided by qualified professionals with experience in this field. Training will be provided on an ongoing basis to individuals to ensure that they are well versed in new legislation and case law in this area.

6.3 Investigation Team

When a written formal complaint has been filed, the Office of Human Rights will establish an investigation team composed of three investigators from the pool and will notify the parties of the composition of the investigation team. The make up of the investigation team shall include an investigator from the same stakeholder group as each of the parties (i.e. where a complaint is made by a student against a faculty member, the investigation team would include a faculty investigator and a student investigator). In the event that it is not possible to appoint an investigator from the same stakeholder group as each of the parties, then an external investigator shall be retained to form part of the investigation team.

6.4 Conflict of Interest

Once an investigation team has been formed, the investigators will select a Chair and will disclose to one another any potential conflicts of interest that they have with any of the parties to the formal complaint. The investigation team, with assistance from the Office of Human Rights, will determine whether a declared potential conflict of interest will result in replacement of the member in question. The nature and circumstances of all declared potential conflicts of interest, together with the team's conclusions regarding the matter, will be noted in writing in any report created by the Chair concerning the formal complaint.

Any party to a formal complaint may challenge the appointment of one or more investigators on the ground that the individual has a potential conflict of interest in the outcome of the matter or that there is a reasonable apprehension of bias on her/his part. A party raising the challenge will submit it in writing to the Office of Human Rights, who will make a decision with regard to the potential for conflict of interest within five (5) working days of having received the challenge. That decision will be final. Details of the challenge and the decision shall be noted in writing in the written report of the investigation team.

6.5 Investigation Time Frame

The investigation shall be completed within eight (8) weeks (40 working days). Time that elapses during the suspension of an investigation, as set out below, will not be included when calculating this time limitation.

6.6 Decisions

The investigation team will attempt to make all decisions by complete agreement. Where this is not possible, the team will vote on the issue and abide by a majority decision.

6.7 Postponement, Suspension or Cancellation

- i) The investigation team may decide to suspend any investigation in the event that the situation is appropriate for, and the parties mutually agree to attempt, alternative dispute resolution (ADR) through the Office of Human Rights. Should ADR not be successful, the investigation team will restart the investigation.
- ii) The Human Rights Advisor may decide to postpone, suspend or cancel any investigation if its continuance would duplicate or prejudice another proceeding or bring the administration of this policy and procedures into disrepute. In coming to a decision, the Human Rights Advisor will consider such factors as:
 - The University's responsibility to provide an environment free from harassment and discrimination,
 - The recognition that grievances may be filed simultaneously with complaints in order to comply with negotiated timelines (should a complainant under these circumstances elect to grieve a human rights matter under her/his collective agreement or other policy established by the University rather than through this policy and procedures, the University reserves the right to continue with its own investigation to address the matter in compliance with its obligations under the *Code*),
 - Other legal procedures that may be initiated to protect statutory rights, and
 - The wishes of the parties.

6.8 Investigation Plan

Once the investigation team has been appointed, the Office of Human Rights will make all relevant documentation collected about the complaint available to the team. The Chair will then devise a written investigation plan which will outline the process to interview the complainant, the respondent, and all witnesses whom the investigation team determines to have any information relevant to the complaint. In addition, the investigation team will list those persons who, although named as witnesses, in its view had no information bearing on the complaint or were not available for interview. If it appears to the team that other persons not named by the parties may have information related to the complaint, every effort will be made to interview those potential witnesses. It may also be necessary to re-interview the parties before issuing the draft report.

6.9 Interviews

During the investigation, every attempt will be made to interview the complainant first. Usually the respondent will be interviewed second because she/he has the right to reply fully to the allegations made against her/him and to name her/his witnesses.

In all circumstances, interviews with witnesses will occur after the complainant and the respondent have been given an opportunity to be interviewed.

All employees and/or students are expected to cooperate in the investigation of complaints and efforts to resolve them.

6.10 Balance of Probabilities

The investigation team will decide whether, on a balance of probabilities, there is enough evidence to conclude that harassment and/or discrimination occurred. This team will also identify all possibilities for resolving the situation, and will recommend one or more courses of action as outlined under the heading Investigation Results and Reports.

6.11 Investigation Results and Reports

The Chair of the Investigation Team shall submit a written report to the Human Rights Advisor summarizing the results of the investigation and including a determination as to whether this policy has been breached along with recommendations as to remedies and/or corrective or disciplinary action.

This report will detail the following:

- A.** Allegations giving rise to the formal complaint,
- B.** Grounds in this policy that have allegedly been violated,
- C.** The results of the investigation and findings.
- D.** One of the following recommendations:
 - 1.** there has been no breach of this policy, or
 - 2.** that the case be closed on the grounds of insufficient evidence of a breach of this policy, or
 - 3.** that the case be settled without disciplinary action, or
 - 4.** where the case warrants corrective/disciplinary action against:
 - a) the respondent for breach of this policy or
 - b) against the complainant on the grounds of frivolous, vexatious, malicious, or bad faith complaint,the Human Rights Advisor will submit the report to either one of the following individuals, depending against whom the corrective/disciplinary action is to be applied:

- i) The Director of Human Resources if the individual against whom the corrective/disciplinary action is to be applied is an employee other than a faculty member, OR
- ii) To a Vice-President, Academic if the individual against whom the corrective/disciplinary action is to be applied is a member of faculty, OR
- iii) To the Associate Vice-President, Student Affairs if the individual against whom the corrective/disciplinary action is to be applied is a student, OR
- iv) To the Vice-President, Administration if the individual against whom the corrective/disciplinary action is to be applied is an administrator, OR
- v) To the Chair of the Board of Governors if the individual against whom the corrective/disciplinary action is to be applied is the President of the University.

The individual who receives the report will then decide, in accordance with this policy and any applicable collective agreements:

- what remedies, if any, will be provided to the complainant,
- the corrective/disciplinary action to be imposed on the respondent or
- the corrective/disciplinary action to be imposed on the complainant in the case of a frivolous, vexatious, malicious, or bad faith complaint and
- whether the individuals in question can continue in their current work or learning areas.

This decision will be communicated in writing to the Human Rights Advisor within twenty (20) working days of having received the Investigation Team Report and recommendations.

6.12 Informing of Decision

Upon receipt of the written decision from the individual who received the report as described above, the Human Rights Advisor will then prepare a Notice of Decision which shall summarize the report of the Investigation Team and set out the decision including any remedies and/or corrective or disciplinary action that has been ordered. The Notice of Decision shall include a summary of the evidence but only aggregate information that does not identify individuals will be included.

The Human Rights Advisor will then review the Notice of Decision separately with each of the complainant and the respondent.

The Human Rights Advisor will provide a copy of the Notice of Decision to the individual who made the decision and, within (10) ten working days or sooner from the date of receipt, this individual will institute corrective action, remedies and any changes in work.

Upon the request of the respondent, the Human Rights Advisor shall provide a copy of the Notice of Decision to the President of the respondent's bargaining agent provided the President signs a Confidentiality Agreement which sets out the authorized uses and disclosure of any information contained in the Notice of Decision.

6.13 Files of Office of Human Rights

After formal resolution of the complaint, the Office of Human Rights will retain the complaint and all supporting documentation reports and notices, as a confidential document except as provided in this policy.

These files will be retained for five (5) years from the date the complaint was filed pursuant to this policy, after which time they will be disposed of in a manner that protects the security and confidentiality of the information.

6.14 Remedies for the Complainant

Laurentian University will make every reasonable effort to remedy the effects of the discrimination or harassment. The complainant may receive one or more remedies depending on the severity of the harassment or discrimination and what he or she lost because of it. These remedies include but are not limited to:

- i)** an oral or written apology from the respondent;
- ii)** lost wages;
- iii)** a job or promotion that was denied;
- iv)** compensation for any lost employment benefits, such as sick leave;
- v)** compensation for lost tuition,
- vi)** a transfer of the student with the student's consent from one course or section to another;
- vii)** reassignment of graduate supervisors,
- viii)** a commitment that he or she will not be transferred, or will have a transfer reversed, unless he or she chooses to move; and/or
- ix)** change in work or study conditions or arrangement.

No record of the complaint, investigation or decision will go in the complainant's personnel or academic file, if the complaint was made in good faith.

6.15 Corrective/Disciplinary Action

An individual who has harassed and/or discriminated against another person or an individual who has filed a frivolous, vexatious, malicious or bad faith complaint, will be subject to one or more of the following forms of discipline, depending on the severity of the case:

- i) a written reprimand if the individual is not governed by the terms of an applicable collective agreement;
- ii) a directive that the discriminatory or harassing behaviour cease;
- iii) a suspension, with or without pay if the individual is not governed by the terms of an applicable collective agreement;
- iv) if a student, a suspension for a definite period;
- v) the requirement to attend a training session with respect to sensitivity, diversity, and Human Rights;
- vi) a transfer, if it is not reasonable for the people involved to continue working together;
- vii) change in work or study conditions or arrangement;
- viii) dismissal if the individual is not governed by the terms of an applicable collective agreement;
- ix) expulsion if the individual is a student;
- x) for complaints against a non-member of Laurentian University, restricting their access to the University and/or expulsion from the property;
- xi) any disciplinary measures available under the terms of the individual's collective agreement.

If the investigation does not find evidence to support the complaint, there will be no documentation concerning the complaint placed in the file of the respondent.

When the investigation reveals that harassment and/or discrimination occurred, the incident and the corrective/disciplinary action which is imposed on the respondent will be recorded in the respondent's file. If the investigation reveals that the complaint was frivolous, vexatious, malicious or made in bad faith, the incident and the corrective/disciplinary action which is imposed on the complainant will be recorded in the complainant's file.

6.16 Settlement Without Disciplinary Action

In the case of a settlement without disciplinary action, the Office of Human Rights will work with the parties to effect the terms of that settlement.

6.17 No Breach

Where the finding is that there has been no breach of this policy, the matter shall be considered resolved and no information shall be placed in the official personnel or student file of the respondent.

7.0 Appeal Procedures

7.1 Faculty, Librarian, and Staff Appeals

Any complainant or respondent who is a bargaining unit member adversely affected by the decision may pursue his or her rights, if any, under the applicable collective bargaining agreement.

7.2 Non-union Group Employee Appeals

Any complainant or respondent who is a non-union group employee adversely affected by the decision may appeal the decision directly to the President within ten working days of receipt of the Notice of Decision by requesting an appeal in writing. The grounds of the available appeal are that there has been a violation, misinterpretation, improper application, or faulty administration of this policy, or, in the case of respondent appeals only, that the sanctions imposed are excessive. Within (10) ten working days of receiving the written appeal, the President will render a final, written decision.

7.3 Student Appeals

Any complainant or respondent who is a student adversely affected by the decision may appeal the decision directly to the President within (10) ten working days. The grounds of the available appeal are that there has been a violation, misinterpretation, improper application, or faulty administration of this policy, or, in the case of respondent appeals only, that the sanctions imposed are excessive. In the case of an appeal against sanctions, the President will consult with the Associate Vice-President, Student Affairs before reaching a final decision. Within (10) ten working days of receiving the written appeal, the President will render a final, written decision.

8.0 Complaints Made in Bad Faith

A complaint is deemed to be made in bad faith if it is deliberately and maliciously invented in order to damage the reputation of the respondent. This is not to be confused with a complaint made in good faith that is found to be without merit. A complaint made in bad faith is a violation of this policy and the complainant will be subject to disciplinary action by one of the following individuals, depending on who the individual filing the complaint is:

- i) The Director of Human Resources if the individual is an employee, other than a faculty member, OR
- ii) A Vice-President, Academic if the individual is a member of faculty, OR
- iii) The Associate Vice-President, Student Affairs if the individual is a student, OR
- iv) The Vice President , Administration if the individual is an administrator, OR
- v) The Chair of the Board of Governors if the individual is the President of the University.

9.0 Retaliation/Reprisal

There shall be no reprisal or retaliation nor any threat of reprisal or retaliation against anyone for pursuing their rights under this policy. Any such alleged reprisal or retaliation or threat thereof shall be equivalent grounds for laying a complaint under this policy. Retaliations can also constitute infractions under the Ontario *Human Rights Code* (section 7 (3) and 8 of the Code).

10.0 Additional Recourse for the Complainant

10.1 Human Rights Commission

This policy does not in any way prevent an individual from going to the Human Rights Commission.

10.2 Other Redress under the Law

Nothing in this policy denies or limits access to other redress available under the law (e.g. union grievance).

11.0 Related Policies/Agreements

- Code of Student Conduct
- Student Athlete Handbook and Code of Conduct
- Statement of Student's Rights and Responsibilities
- Race Relations Policy
- Employment Equity Policy
- Residence Agreements: Lucien Matte Residence, University of Sudbury
- Community Standards Manual for Laurentian University Residence Complex (University College Residence, Single Student Residence, Mature Student Residence, West Residence)
- Collective Agreements
- University of Sudbury: Policy re: Resolution of Human Rights Issues (Anti-harassment)
- Thorneloe University Policy
- The Northern Ontario School of Medicine's Discrimination and Harassment Policy and Procedure

12.0 Related Legislation

- The Ontario *Human Rights Code* (the Code) <http://www.ohrc.on.ca>
- *Ontarians with Disabilities Act, 2001* <http://www.e-laws.gov.on.ca>
- *Accessibility for Ontarians with Disabilities Act, 2005*
<http://www.mcass.gov.on.ca>
- *The Employment Standards Act* <http://www.labour.gov.on.ca>
- *The Occupational Health and Safety Act* <http://www.labour.gov.on.ca>
- *Freedom of Information and Protection of Privacy Act (FIPPA, Ontario)*
<http://www.accessandprivacy.gov.on.ca>
- *Labour Relations Act* <http://www.olrb.gov.on.ca>

13.0 Implementation and Review

This policy comes into effect the date of its approval by the Board of Governors of Laurentian University.

Until such time as the pool of investigators has been selected and trained in accordance with this policy, any complaint filed pursuant to this policy will be investigated by an external investigator. This investigator will proceed in accordance with the terms of this policy.

Should it not be possible to proceed with all terms of this policy within 6 (six) months, this provision and its application will be reviewed with the ad hoc committee, which was consulted in the development of this policy, to determine further interim implementation measures.

Review:

The policy will be reviewed every three years.

Note: This policy will remain in effect until the newly revised policy has been approved by the Board of Governors.