

## UNIVERSITY OF MANITOBA POLICY

<b>Policy:</b>	<b>RESPECTFUL WORK AND LEARNING ENVIRONMENT</b>
<b>Effective Date:</b>	January 27, 2009
<b>Revised Date:</b>	September 1, 2016
<b>Review Date:</b>	September 1, 2019
<b>Approving Body:</b>	Board of Governors
<b>Authority:</b>	<i>The University of Manitoba Act, s.4(t), s.16(1), s.18</i>
<b>Responsible Executive Officer:</b>	President
<b>Delegate:</b>	Vice-President (Administration)
<b>Contact:</b>	General Counsel
<b>Application:</b>	Board of Governors members, Senate members, Faculty/College/School Councils, employees, anyone holding an appointment at the University, students, volunteers, external parties, contractors and suppliers

### Part I Reason for Policy

- 1.1 The reason for this Policy is to:
- (a) Promote and support a respectful work and learning environment at the University; and
  - (b) Ensure compliance with relevant legislation, including *The Human Rights Code* (Manitoba), and *The Workplace Health and Safety Regulation* (Manitoba).

### Part II Policy Content

#### Definitions

- 2.1 The following terms are defined for the purpose of this Policy:

- (a) **"Academic Staff"** refers to all individuals whose primary assignment is instruction, research, and/or service/academic administration. This includes employees who hold an academic rank such as professor, associate professor, assistant professor, instructor, lecturer, librarian, or the equivalent of any of those academic ranks. The category also includes a dean, director, associate dean, assistant dean, chair or head of department, visiting scholars, senior scholars, and those holding unpaid academic appointments, insofar as they perform instructional, research, and/or service/academic administrative duties.
- (b) **"Breach"** means any conduct, behaviour, action or omission which is prohibited under this Policy or the Procedure, including but not limited to Discrimination, Harassment, and Reprisals.
- (c) **"College"** means a Professional College as defined under the Definitions of Academic Units Policy.
- (d) **"Committee"** means the Human Rights Advisory Committee, established pursuant to section 2.13 of this Policy.
- (e) **"Complainant"** means the individual or individuals bringing forward a complaint of a Breach.
- (f) **"Designated Officer"** means the Vice-President (Administration), or designate.
- (g) **"Discrimination"** has the same meaning as defined in section 2.5 of the Procedure.
- (h) **"Faculty"** means a Faculty as defined under the Definitions of Academic Units Policy.
- (i) **"Formal Complaint"** means a complaint to the Human Rights and Conflict Management Officer that is in writing and contains, at minimum, the following information:
  - (i) The name of the Complainant and contact information for the Complainant;
  - (ii) A description of the alleged Breach;
  - (iii) The approximate date of the alleged Breach, being within 1 year from the date of the most recent alleged incident unless, in the discretion of the Human Rights and Conflict Management Officer, extenuating circumstances would warrant an extension of time;
  - (iv) The name of the Respondent;

- (v) Contact information for the Respondent, if known;
  - (vi) An indication that the Complainant desires the complaint to be the subject of an Investigation; and
  - (vii) The Complainant's signature.
- (j) **"Harassment"** refers to Personal Harassment, Human Rights Based Harassment, and/or Sexual Harassment as defined in section 2.10 of the Procedure.
  - (k) **"Human Rights and Conflict Management Officer"** or **"HRCMO"** means an individual appointed by the University of Manitoba as someone possessing the appropriate training and skills to fulfill the role outlined in section 2.17 of this Policy.
  - (l) **"Informal Resolution"** means the resolution of an alleged Breach to the satisfaction of the Complainant and the Respondent, without an Investigation being completed.
  - (m) **"Investigation"** means a formal investigation of an alleged Breach conducted in accordance with the Procedure.
  - (n) **"Investigator"** means one or more persons appointed as the investigator of an alleged Breach, pursuant to section 2.36 of the Procedure.
  - (o) **"Policy"** means this Respectful Work and Learning Environment Policy.
  - (p) **"Preliminary Assessment"** means the initial review of a Formal Complaint, in accordance with sections 2.23 to 2.28 of the Procedure.
  - (q) **"Procedure"** means the RWLE and Sexual Assault Procedure.
  - (r) **"Protected Characteristic"** has the same meaning as defined in section 2.6 of the Procedure.
  - (s) **"Reasonable Accommodation"** means an accommodation of the special needs of any individual or group, if those special needs are based upon any Protected Characteristic, that is reasonable but not necessarily perfect in the circumstances, that does not cause undue hardship to the University, and does not compromise bona fide and reasonable requirements of the University.
  - (t) **"Reprisal"** has the same meaning as defined in section 2.57 of the Procedure.
  - (u) **"School"** means a "School of the University" or a "School of the Faculty", as those terms are defined under the Definitions of Academic Units Policy.

- (v) **"University"** means The University of Manitoba.
- (w) **"University Community"** means all Board of Governors members, Senate members, Faculty/College/School Councils, employees, anyone holding an appointment with the University, students, volunteers, external parties, contractors and suppliers.
- (x) **"University Matter"** has the same meaning as defined in section 2.3 of the Procedure.

### **Vision for the University Community**

- 2.2 The University wishes to promote and support a community which embraces diversity and inclusion, provides for equality of opportunity, and recognizes the dignity of all people.
- 2.3 Members of the University Community, including every student and employee, are entitled to a respectful work and learning environment that is:
  - (a) Free from Discrimination and provides for Reasonable Accommodation;
  - (b) Free from Harassment; and
  - (c) Collegial and conducive to early resolution of conflict between members of the University Community.
- 2.4 A respectful work and learning environment is critical to the success and proper functioning of the University. Whether behaviour is viewed as respectful can be influenced by place, time, and context.
- 2.5 The University wishes to encourage early resolution of conflict between members of the University Community, and to provide guidance to managers, Academic Staff and Unit Heads on addressing behaviour that falls short of Harassment or Discrimination, but that nevertheless has a negative impact on the work and learning environment for which they are responsible.
- 2.6 Managers, Academic Staff and Unit Heads must encourage a respectful environment within the work and learning environments for which they are primarily responsible. They are expected to identify and address issues of concern in a timely manner, recognizing the value of early intervention. The University will provide training and resources to assist managers, Academic Staff and Unit Heads to fulfil these expectations.

### **Implementation of Vision**

- 2.7 In furtherance of its vision, the University will:

- (a) Through various academic and administrative units and programs, educate members of the University Community about:
  - (i) The University's general expectations for respectful conduct;
  - (ii) The rights and obligations of members of the University Community under this Policy and the Procedure; and
  - (iii) Best practices to facilitate early resolution of conflict between members of the University Community and/or to address behaviour that falls short of Harassment or Discrimination, but nevertheless has a negative impact on the work and learning environment.
- (b) Ensure, so far as is reasonably practicable, that:
  - (i) No member of the University Community is subjected to Discrimination or Harassment while participating in a University Matter;
  - (ii) No employee is subjected to Discrimination or Harassment in the workplace; and
  - (iii) No student is subjected to Discrimination or Harassment in the learning environment;
- (c) Adopt procedures, protocols, and practices which will encourage individuals to bring concerns about an alleged Breach to an appropriate authority, including provisions to protect against Reprisal those who bring forward such allegations;
- (d) Provide supports to encourage and facilitate the Informal Resolution of an alleged Breach where appropriate;
- (e) Take action respecting any person under the University's direction who subjects a student, an employee, or any other member of the University Community, to Discrimination or Harassment;
- (f) Supplement existing policies, procedures or bylaws, by providing a mechanism for the Investigation of an alleged Breach; and
- (g) Adopt procedures, protocols and practices which promote the creation of a respectful environment, including providing guidance on how to deal with matters of concern which do not constitute Harassment or Discrimination.

2.8 The University is committed to promoting a respectful work and learning environment by encouraging all members of the University Community to:

- (a) Bring forward credible evidence of a Breach of which they become aware, to an appropriate authority;
  - (b) Provide reasonable cooperation in an Investigation of a Breach; and
  - (c) Be aware of their rights and responsibilities under this Policy.
- 2.9 Discipline may be implemented against any person whose behaviour is found to have caused or contributed to a Breach or other violation of this Policy and the Procedure.

### **Awareness Building and Responsibilities**

- 2.10 All members of the University Community have a responsibility to educate themselves as to expectations for respectful conduct and reporting requirements as outlined in this Policy and the Procedure.
- 2.11 All members of the University Community, especially those in an instructional, supervisory or managerial position, have a duty to educate those for whom they are responsible regarding expectations for respectful conduct, including this Policy and the Procedure. It is further the duty of such individuals to deal appropriately with allegations regarding Breaches or other violations of this Policy and the Procedure.
- 2.12 The University, through the Office of Human Rights and Conflict Management and other units as appropriate, will provide information to and respond to inquiries from the University Community regarding the University's expectations for respectful conduct and the rights and obligations of members of the University Community under this Policy and the Procedure.

### **Human Rights Advisory Committee**

- 2.13 The University will establish a Human Rights Advisory Committee, with a membership consisting of:
- (a) The Associate Vice-President (Human Resources) or designate;
  - (b) The Vice-Provost (Students) or designate; and
  - (c) The Vice-Provost (Academic Affairs) or designate, provided that the designate holds an academic appointment with the University.
- 2.14 The mandate of the Committee is to:
- (a) Hear appeals from Preliminary Assessment decisions, in accordance with the Procedure;

- (b) Receive and review the HRCMO's annual report under section 2.18 of this Policy;
  - (c) Provide advice and guidance on potential amendments or revisions to this Policy and the Procedure.
- 2.15 If any member of the Committee is unable or unwilling to fulfill his/her responsibilities under this Policy and the Procedure, or if the subject matter of a Formal Complaint is such that it would be inappropriate for that member of the Committee to review the matter for reason of conflict of interest or any other reason, the HRCMO will ask the President to appoint an alternate to act in place of that member. The alternate may be any person with a direct report to the Vice-President (Administration) or Provost and Vice-President (Academic), or any other employee of the University, who:
- (a) Has skills and/or experience desirable in the circumstances;
  - (b) Would be able to review the Formal Complaint in an unbiased manner; and
  - (c) Would not be placed in a conflict of interest.
- 2.16 Any appointment under section 2.15 must be made with notice to the Complainant.

### **Role of HRCMO**

- 2.17 The Human Rights and Conflict Management Officer (HRCMO) will:
- (a) Provide advice and guidance to the University Community on how to best implement this Policy and the Procedure;
  - (b) Facilitate education and training opportunities for members of the University Community regarding their rights and obligations under this Policy and the Procedure;
  - (c) Conduct Preliminary Assessments of Formal Complaints;
  - (d) Provide information to both the Complainant and Respondent regarding opportunities and resources available to facilitate Informal Resolution of concerns and, where appropriate, coordinate communications between Complainants and Respondents on the understanding that such communications will not be provided to the Investigator if the matter moves to a Formal Complaint;
  - (e) Identify and track trends in matters relating to this Policy and the Procedure, and provide advice and guidance to the administration and the University Community on such trends; and

- (f) Provide advice and guidance on potential amendments or revisions to this Policy and the Procedure.

### **Annual Report**

- 2.18 The HRCMO will produce and provide an annual report to the Designated Officer and the Committee, outlining:
- (a) De-identified data regarding the number and types of complaints received;
  - (b) De-identified data regarding the number and types of Investigations conducted;
  - (c) Information regarding observable trends;
  - (d) De-identified information regarding particularly important cases;
  - (e) Information on educational activities; and
  - (f) Other relevant information which may further the implementation of the Policy and its Procedures.
- 2.19 The annual report will be made available to the University Community.

### **Balancing of Rights**

- 2.20 Nothing in this Policy or the Procedure is intended to detract from the academic freedom of the University's Academic Staff.
- 2.21 Nothing in this Policy or the Procedure is intended to compromise the University's academic standards or the integrity of its programs. The University encourages diversity and Reasonable Accommodation, but will also vigorously defend bona fide academic requirements.
- 2.22 The University encourages informed debate which may, from time to time, include discussion of unpopular opinions or controversial material. Such material may be used to further scholarly pursuits, provided that the communication is compatible with the principles of human rights, the *Criminal Code*, and the principles of respectful behaviour embodied in this Policy and the Procedure. Opinions must be expressed in a manner which is not in Breach of this Policy or the Procedure.
- 2.23 This Policy and the Procedure applies to the general workplace, but is not intended to:
- (a) Detract from academic freedom;
  - (b) Regulate teaching techniques and pedagogy; or



- (c) Limit the legitimate work of managers, supervisors and academic administrators to assign work and provide feedback on work or performance.

### **Additional Protections**

- 2.24 The University will not disclose the name of a Complainant or Respondent or the circumstances related to a complaint of alleged Breach except where disclosure is:
  - (a) Necessary to investigate the complaint or take corrective action with respect to the complaint; or
  - (b) Required by law.
- 2.25 Nothing in this Policy or the Procedure is intended to discourage or prevent a member of the University Community, including students and employees, from filing a complaint with the Manitoba Human Rights Commission, or from exercising any other legal rights pursuant to any other law.
- 2.26 Nothing in this Policy or the Procedure is intended to limit the rights of an employee governed by a collective agreement. If there is any ambiguity or conflict between this Policy or the Procedure, and a collective agreement, the collective agreement will prevail.

### **Part III Accountability**

- 3.1 The Office of Legal Counsel is responsible for advising the President that a formal review of this Policy is required.
- 3.2 The Vice-President (Administration) is responsible for the implementation, administration and review of this Policy.
- 3.3 All members of the University Community are responsible for complying with this Policy.

### **Part IV Authority to Approve Procedures**

- 4.1 The Vice-President (Administration) may approve procedures, if applicable, which are secondary to and comply with this Policy, including but not limited to:
  - (a) A procedure to supplement existing policies, procedures or bylaws, by providing a mechanism for the Investigation of an alleged Breach, including regarding:

- (i) Receipt and review of complaints;
  - (ii) The circumstances under which an Investigation should take place;
  - (iii) Appointment of investigators;
  - (iv) Conduct of an Investigation, in accordance with the principles of procedural fairness and natural justice;
  - (v) Respecting the confidentiality of information collected in relation to complaints and Investigations;
  - (vi) Protecting individuals against Reprisal;
  - (vii) Protecting individuals against unfounded allegations of a Breach;
  - (viii) Producing a report at the conclusion of an Investigation; and
  - (ix) Implementing discipline, if necessary.
- (b) Generally defining the responsibility, authority and accountability of members of the University Community under this Policy.

## **Part V Review**

- 5.1 Governing Document reviews shall be conducted every three (3) years. The next scheduled review date for this Policy is September 1, 2019.
- 5.2 In the interim, this Policy may be revised or repealed by Approving Body if:
- (a) The Vice-President (Administration) or the Approving Body deems it necessary or desirable to do so;
  - (b) The Policy is no longer legislatively or statutorily compliant; and/or
  - (c) The Policy is now in conflict with another Governing Document.
- 5.3 If this Policy is revised or repealed all Secondary Documents, if applicable, shall be reviewed as soon as possible in order that they:
- (a) Comply with the revised Policy; or
  - (b) Are in turn repealed.

**Part VI**  
**Effect on Previous Statements**

- 6.1 This Policy supersedes all of the following:
- (a) Respectful Work and Learning Environment Policy, dated January 27, 2009;
  - (b) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
  - (c) all previous Administration Governing Documents on the subject matter contained herein.

**Part VII**  
**Cross References**

- 7.1 This Policy should be cross referenced to the following relevant Governing Documents, legislation and/or forms:
- (a) [RWLE and Sexual Assault Procedure](#);
  - (b) [Sexual Assault Policy](#);
  - (c) [Academic Freedom and Responsibilities Policy](#);
  - (d) [Access and Privacy Policy and Procedure](#);
  - (e) [Definitions of Academic Units Policy](#);
  - (f) [Records Management Policy and Procedure](#);
  - (g) [Responsible Conduct of Research Policy](#);
  - (h) [Student Discipline Bylaw](#);
  - (i) [Student Non-Academic Misconduct and Concerning Behaviour Procedure](#);
  - (j) [Student Discipline Appeal Procedure](#);
  - (k) [Violent or Threatening Behaviour Policy and Procedure](#);
  - (l) [Use of Computer Facilities Policy and Procedure](#);
  - (m) *Criminal Code*, RSC 1985, c C-46;
  - (n) *The Human Rights Code*, C.C.S.M. c. H175;

(o) *Workplace Safety and Health Regulation*, 217/2006.