

UNIVERSITY OF MANITOBA POLICY

Policy:	RESPECTFUL WORK AND LEARNING ENVIRONMENT
Effective Date:	January 27, 2009
Revised Date:	September 29, 2020
Review Date:	September 29, 2023
Approving Body:	Board of Governors
Authority:	<i>The University of Manitoba Act, s.4(t), s.16(1), s.18</i>
Responsible Executive Officer:	President
Delegate:	Vice-President (Administration)
Contact:	General Counsel
Application:	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 University of Manitoba does not condone behaviour that is likely to undermine the dignity, self-esteem or productivity of any of its members and prohibits any form of discrimination or harassment whether it occurs on University property or in conjunction with University-related activities. The University of Manitoba is committed to providing an inclusive and respectful work and learning environment, free from discrimination or harassment as prohibited in the Manitoba Human Rights Code; and also an environment that does not detract from the academic freedom of the University's Academic Staff.
- 1.2 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)*, *The Workplace Safety and Health Regulation (Manitoba)*, and *The Freedom of Information and Protection of Privacy Act (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) **"Complainant"** means the individual or individuals bringing forward a complaint of a Breach.
- (e) **"Designated Officer"** means the Vice-President (Administration), or designate.
- (f) **"Discrimination"** has the same meaning as defined in section 2.5 of the Procedure.
- (g) **"Faculty"** means a Faculty as defined under the Definitions of Academic Units Policy.
- (h) **"Formal Complaint"** means a complaint to the Office of Human Rights and Conflict Management 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;
 - (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;
- (i) "**Harassment**" refers to Personal Harassment or Human Rights Based Harassment as defined in section 2.10 of the Procedure.
- (j) "**Informal Resolution**" means the resolution of an alleged Breach to the satisfaction of the Complainant and the Respondent, without an Investigation being completed, as per sections 2.23 to 2.32 of the Procedure.
- (k) "**Investigation**" means a formal investigation of an alleged Breach conducted in accordance with the Procedure.
- (l) "**Investigator**" means one or more persons appointed as the investigator of an alleged Breach, pursuant to section 2.59 of the Procedure.
- (m) "**Office of Human Rights and Conflict Management**" or "**OHRCM**" means the unit appointed by the University of Manitoba to implement this Policy and the Procedure.
- (n) "**Policy**" means this Respectful Work and Learning Environment Policy.
- (o) "**Preliminary Assessment**" means the initial review of a Formal Complaint, in accordance with sections 2.36 to 2.41 of the Procedure.
- (p) "**Procedure**" means the Disclosures and Complaints Procedure.
- (q) "**Protected Characteristic**" has the same meaning as defined in section 2.6 of the Procedure.
- (r) "**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.
- (s) "**Reprisal**" means any measures taken against a Complainant, Respondent, or any other person because they have asked for advice regarding this Policy or Procedure, brought forward allegations of a Breach or made a Formal Complaint, cooperated with an Investigation, or rejected a sexual solicitation or advance. Reprisal measures include, but are not limited to:
 - (i) Discipline;

- (ii) Academic penalties (in the case of students);
 - (iii) Demotion;
 - (iv) Termination of employment;
 - (v) Termination of an academic appointment;
 - (vi) Any other measure which significantly adversely affects working conditions or educational experience; and
 - (vii) A threat to take any of the measures referred to above.
- (t) **"Respondent"** means an individual or individuals accused of having caused or contributed to a Breach.
 - (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) **"Unit Head"** refers to the individual with direct supervisory authority over a Unit, including Deans, Directors, the University Librarian, the President, Vice-Presidents, Associate Vice-Presidents and Vice-Provosts with respect to their Units.
 - (w) **"University"** means The University of Manitoba.
 - (x) **"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.
 - (y) **"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 equity, 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 establish and maintain a climate of respect and demonstrate and model appropriate behaviours within any 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 that is harassment and discrimination-free 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 Managers, Academic Staff and Unit Heads should contact the Office of Human Rights and Conflict Management and other administrative units as appropriate to receive advice and assistance in dealing with situations of concern.
- 2.10 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

- 2.11 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.
- 2.12 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 which is harassment and discrimination-free, 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, and individuals should consult with the Office of Human Rights and Conflict Management in fulfilling this duty.

- 2.13 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 that is harassment and discrimination-free and the rights and obligations of members of the University Community under this Policy and the Procedure.

Annual Report

- 2.14 The OHRCM will produce and provide an annual report to the Designated Officer, outlining:
- (a) Information on activities undertaken to raise awareness and contribute to prevention including the type of activity and the number of students and staff who attend;
 - (b) De-identified data regarding the number and types of Disclosures and Formal Complaints received;
 - (c) De-identified data on process factors such as the number and types of Investigations conducted and whether they resulted in a finding of Breach or No Breach;
 - (d) Aggregate anonymized data on Complainant and Respondent roles as either Faculty, Staff, Students, or Other at the University;
 - (e) De-identified data on fairness factors such as time to process and the identity of investigators;
 - (f) Information regarding observable trends and commentary on the implementation and effectiveness of the Policy; and
 - (g) Other relevant information which may further the implementation of the Policy and its Procedures.

- 2.15 The annual report will be made available to the University Community.

Balancing of Rights

- 2.16 Nothing in this Policy or the Procedure is intended to detract from the academic freedom of the University's Academic Staff.
- 2.17 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.

- 2.18 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.
- 2.19 This Policy and the Procedure applies to the general workplace, but is not intended to:
- (a) Regulate teaching techniques, pedagogy, research, and service; or
 - (b) Limit the legitimate work of managers, supervisors and academic administrators to assign work and provide feedback on work or performance.

Additional Protections

- 2.20 Confidentiality obligations required of and related to the University, Complainants, Respondents, and witnesses are found at sections 2.68 and 2.69, and sections 2.87 to 2.95 of the Procedure.
- 2.21 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, for example, the Winnipeg Police Service, the Manitoba Human Rights Commission, professional regulatory bodies, or from exercising any other legal rights pursuant to any other law.
- 2.22 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 Formal 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;
 - (v) Respecting the confidentiality of information collected in relation to Formal 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) Providing information to appropriate disciplinary authorities, 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 29, 2023.
- 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 September 1, 2016;
 - (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) [Disclosures and Complaints Procedure](#)
 - (b) [Sexual Violence 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
- (p) *The Freedom of Information and Protection of Privacy Act*, C.C.S.M. c. F175
- (q) *The Personal Health Information Act*, C.C.S.M. c. P33.5