



6.1 Harassment / Discrimination

Approving Authority:	Board of Governors
Original Approval Date:	February 12, 1991
Date of Most Recent Review/Revision:	February 17, 2011
Office of Accountability:	VP: Finance & Administration
Administrative Responsibility:	Harassment/Discrimination Office

I. Preamble

Wilfrid Laurier University is devoted to learning, research, scholarship, creativity, professional expertise, and personal development in a student-centred environment. The university is committed to providing an environment for study, teaching, research work and recreation for all members of the university community that is supportive of professional and personal development and free from all forms of harassment and/or discrimination as outlined in the Occupational Health and Safety Act and the Ontario Human Rights Code.

Ontario Human Rights Code

Section 5.1: Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offenses, marital status, same-sex partnership status, family status or disability.

Section 5.2: Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offenses, marital status, same-sex partnership status, family status or disability.

Section 7.2: Every person who is an employee has a right to freedom from harassment in the workplace because of sex by his or her employer or agent of the employer or by another employee.

Section 7.3: Every person has a right to be free from:

a. a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

b. a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

As such, the university does not condone behaviour that may undermine work relationships or academic achievement and by this Policy declares that it will not tolerate any form of harassment and/or discrimination. Each member of the campus community is responsible for helping to create an environment which is harassment and/or discrimination free as both work and learning can best be accomplished in an environment of understanding and mutual respect for the dignity and rights of each

individual. The university recognizes its responsibility to deal quickly, fairly and effectively with harassment and/or discrimination should it arise. The university accepts responsibility for the establishment of procedures for dealing with allegations of and/or recurrence of harassment and/or discrimination. Where any collective agreement to which the university is a party contains provisions relating to harassment and/or discrimination, the terms of that collective agreement shall be applied to the alleged harassment and/or discrimination for members of the appropriate bargaining unit accused of harassment and/or discrimination.

II. Fundamental Principles

A. Harassment and/or discrimination are prohibited by the [Ontario Human Rights Code](#) and are against the law.

B. Every person continues to have a right to seek assistance from the Ontario Human Rights Commission even when steps are being taken under this policy.

C. All procedures followed under this policy shall be guided by the paramount need to ensure that complainants, respondents, and witnesses are treated according to the principles of natural justice. Every effort will be made to safeguard the rights of both complainant(s) and respondent(s).

D. Wherever possible, complaints of harassment and/or discrimination will be resolved informally or by mediation.

E. Every effort will be made to insure that all procedures followed under this policy shall remain strictly confidential, subject either to [The Freedom of Information and Protection of Privacy Act*](#), or in cases of imminent danger to the university community.

F. The university will make every effort to ensure that each member of the campus community is aware of the institution's policy.

G. Reprisals, retaliation or threats of reprisals against anyone for pursuing her/his rights under the policy, for having participated or cooperated in an investigation, or for having been associated with someone who has pursued rights or participated in the procedures, or acting in any role under the policy will be treated as prohibited harassment and/or discrimination.

H. The [Ontario Human Rights Code](#) states that a person who is part of the directing mind of an institution, and who has the authority to prevent or discourage harassment and/or discrimination may be considered responsible for failing to exercise his/her authority to do so. If one has that authority, one has a positive obligation to provide a workplace free from harassment and/or discrimination. Persons in authority must respond if they are aware that harassment and/or discrimination is occurring and should not wait until complaints are brought forward. Persons in authority are expected to prevent incidents from happening, to establish a respectful workplace and to anticipate any problem areas to the extent that their authority permits.

I. The university community should be aware that sexual assault; sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault (sections 271, 272, 273); criminal harassment or stalking (section 264) and intimidation (section 423) are all offenses under the Criminal Code and can be charged as such.

* Copy is located in University Library and in the Harassment/Discrimination Office.
Ref. [The Freedom of Information and Protection of Privacy Act](#), R.S.O. 1990, c.F.31.

III. Grounds Covered

This policy covers the following areas whether the harassment and/or discrimination is overt (direct), indirect (differential treatment), because of association, or systemic. This policy also covers personal and workplace harassment. In assessing whether personal or workplace harassment has occurred, the standard of the "reasonable person" shall apply. Workplace harassment does not include reasonable actions relating to a worker's employment, including performance management or the reasonable exercise of academic freedom.

A. Harassment

One of a series of vexatious comments or conduct related to one or more of the prohibited grounds ([Human Rights Code](#) sections 5.1, 5.2, 7.2, 7.3.a and 7.3.b) that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate. Examples include but are not limited to gestures, remarks, jokes, taunting, innuendo, display of offensive materials, offensive graffiti, threats, verbal or physical assault, imposition of academic penalties, hazing, stalking, shunning or exclusion related to the prohibited grounds.

Under the [Occupational Health and Safety Act](#) "workplace harassment" means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. If it occurs within the course of the employment relationship, workplace harassment may involve conduct that is verbal or non-verbal, a single incident or a series of incidents that may be directed at a co-worker, subordinate or manager. All acts of workplace harassment are strictly prohibited.

B. Sexual Harassment

One or a series of comments or conduct of a gender-related or sexual nature that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate. This includes but is not limited to sexual assault, verbal abuse or threats, unwelcome sexual invitations or requests, demands for sexual favours, or unwelcome and repeated innuendos or taunting about a person's body, appearance or sexual orientation, when:

1. submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic status or academic accreditation; or
2. submission to or rejection of such conduct by an individual is used as the basis for employment, or for academic performance, status or accreditation decisions affecting such individual; or
3. such conduct interferes with an individual's work or academic performance; or
4. such conduct creates an intimidating, hostile or offensive working or academic environment.

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:

1. 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;

2. 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, may be the subject of disciplinary action under other University policies and, as such, 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.

C. Discrimination

Action(s) or behaviour(s) that result in the unfavourable or adverse treatment or preferential treatment related to the prohibited grounds. Examples include any differential treatment. Common examples include but are not limited to refusal to provide goods, services or facilities, exclusion from employment or employment benefits, refusal to work with or teach someone, failure to provide physical access.

D. Negative Environment

One or a series of comments or conduct that creates a negative environment for individuals or groups and are related to the prohibited grounds. The comments or conduct must be of a significant nature or degree and have the effect of "poisoning" the work or study environment. A complainant does not have to be a direct target to be adversely affected by a negative environment. It includes conduct or comments that create and maintain an offensive, hostile, or intimidating climate for study or work. Examples include but are not limited to exposure to graffiti, signs, cartoons, remarks, exclusion, or adverse treatment related to one or more of the prohibited grounds.

E. Systemic Harassment and/or Discrimination

Policies, practices, procedures, actions or inactions that appear neutral, but have an adverse impact associated with one of the prohibited grounds. An example might be institutions, structures, expectations, which although uniform in application, have the effect of limiting access to benefits or services to certain persons or groups of people because of prohibited grounds such as physical disabilities, age, gender, or religion. Physical inaccessibility to classrooms and services would be an example.

IV. Complaint Procedures

A. General Provisions

1. The complainant shall decide whether the complaint goes forward and may withdraw the complaint at any stage.

2. Every effort to maintain confidentiality subject to the [Freedom of Information and Protection of Privacy](#)

Act* will be made, as well as every effort to conform to the principles of natural justice including rights to representation.

3. In the absence of exceptional circumstances, which shall be determined by the harassment/discrimination co-ordinator, a complaint must be made to the harassment/discrimination co-ordinator within four months of the alleged harassment and/or discrimination occurring. The harassment/discrimination co-ordinator shall thereupon consult the complainant with regard to the circumstances of the complaint. Examples of exceptional circumstances might be where it was not practicable to complain earlier, where it is in the common interest of the community to allow a late complaint, where events were not known to the complainant.

4. Should the complainant commence proceedings before the Ontario Human Rights Commission or Tribunal, or in the courts or should any criminal prosecution be commenced concerning the circumstances of a complaint of harassment and/or discrimination being considered under this policy, proceedings under this policy shall be suspended until those other proceedings are concluded. Under such circumstances interim solutions may apply.

B. Initiating the Complaint

Any person who is a member of the University Community may seek the advice and support of the harassment/discrimination co-ordinator in order to clarify or discuss possible situations which may or may not be harassment and/or discrimination.

Following the consultation with the harassment/discrimination co-ordinator, the complainant shall indicate whether he/she elects to:

1. take no further action; or
2. proceed to file a complaint.

If the complainant elects to file a complaint, the complainant shall make a written statement, signed and dated, of the circumstances of the alleged harassment, and shall provide written authorization for the Harassment/Discrimination Coordinator to proceed with an informal resolution of the complaint.

C. Informal Resolution

Upon receipt of a written statement of complaint, the harassment/discrimination co-ordinator will provide the respondent with a written summary of the same, and will invite the respondent to reply in writing. The harassment/discrimination co-ordinator will discuss the complaint with both parties and attempt to resolve the complaint fairly and acceptably to both parties.

If a fair and acceptable resolution is reached with the harassment/discrimination co-ordinator both parties will sign a statement to that effect which will be filed with the harassment/discrimination co-ordinator. No further action on the complaint so resolved will be taken unless the parties fail to comply with the terms on which the complaint is resolved.

If a fair and acceptable resolution is not reached by the harassment/discrimination co-ordinator within 20 working days of receipt of the written statement of complaint, the co-ordinator will so inform the parties in writing and the complainant may then elect to:

1. withdraw the complaint; or
2. request that a resolution be sought through a mediator agreed upon by the complainant and

respondent for such resolution; or

3. request that the complaint be referred to the president for a formal investigation.

If the complainant fails to make a decision within 10 working days of the expiry of the 20 working day period allowed for informal resolution under that clause, the complaint shall be deemed to be withdrawn by the complainant and no further action will be taken by the harassment/discrimination co-ordinator.

D. Mediation

In the event that no informal resolution is reached, the complainant and the respondent have agreed to seek a resolution through mediation, an independent mediator shall be selected by the harassment/discrimination co-ordinator from a list of mediators agreed to by the university and employee or student groups. The mediator shall agree to complete the mediation within 20 working days of accepting the invitation to mediate the complaint.

If the mediator succeeds in assisting the complainant and the respondent in reaching a settlement of the complaint, the terms of the settlement shall be stated in writing, signed by the complainant, the respondent and the mediator, and copied to the university and the appropriate employee or student group. If a settlement entails action on the part of the university, the settlement shall also require the agreement of the university which shall signify its agreement by signing the settlement prepared by the mediator.

In the event that mediation fails, the mediator shall make a report to that effect to the harassment/discrimination co-ordinator within 20 working days of accepting the invitation to mediate. The mediator's report shall be copied to the complainant and the respondent.

Within 10 working days of receipt of this report, the complainant may request or the harassment/discrimination co-ordinator may recommend that the president undertake a Formal Investigation. If such a request or recommendation is made, the respondent shall be notified in writing. The request for a formal investigation shall include a written statement of the complaint, the respondent's written responses, if any, the mediator's report, and other documents considered by the harassment/discrimination co-ordinator and mediator in their efforts to resolve the complaint.

If no request or recommendation for a formal investigation is made within 10 working days of the receipt of the mediator's report, the complaint shall be considered to have been withdrawn, and no record of the complaint shall be placed by the university in the employee's or student's official file.

E. Formal Investigation

Within 10 working days following the receipt of the request or recommendation for a formal investigation, the president shall appoint an investigator to report on the complaint. The investigator shall not be the harassment/discrimination co-ordinator or the vice-president: academic. The university shall notify the student, employee or employee group of the name of the investigator and the name of the employee or student who has made the complaint and/or the name of the student and employee against whom the complaint has been made.

Within 20 working days of appointment, the investigator shall make a written report to the President. The report shall include a copy of the signed complaint, the written response, if any, of the respondent, and a finding as to whether the complaint has been upheld or not with a statement of reasons for that finding.

Within 10 working days following the receipt of this report, the president shall notify the respondent in writing, with a copy to the appropriate of the outcome of the investigation, including any actions or sanctions he/she proposes to impose on the respondent. The president shall also inform the complainant in writing of the outcome of the investigation.

A statement from the president that an employee was guilty of harassment with or without any formal sanctions constitutes discipline according to the employee's collective agreement.

If the university decides after formal investigation not to take disciplinary action against the respondent or if an arbitration decides in favour of the respondent, the university shall remove all documentation concerning the allegation from the respondent's official file. The university agrees to take such steps as may be necessary and reasonable to protect the reputation and credibility of such a respondent.

The university agrees that it will take disciplinary action against those who make allegations of harassment which are reckless, malicious and not in good faith.

F. Additional Provisions

1. Right of Parties to Support and Assistance

a. The complainant and respondent are entitled to the services of the university Counselling Services.

b. The complainant and the respondent are also entitled to the support and assistance of an advocate or representative from a preselected list of members of the university community or person of their choice. Such list is to be chosen and maintained by the harassment/discrimination co-ordinator. The university is not responsible for any costs incurred by the complainant or respondent.

c. Members of unions and associations have all rights to representation that their agreements with the university confer.

2. Retaliation

The university will consider retaliation or threat of retaliation at any stage against anyone for bringing forward in good faith a complaint or concern about harassment and/or discrimination to be a serious offence, and will take preventative, interim, disciplinary and/or remedial measures.

3. Obstructing the Process

Any person whose willful actions or inactions obstruct the application of these procedures or who willfully breaks an undertaking or agreement shall be subject to disciplinary measures.

4. Interim Solutions

The complainant, respondent, or unit may require immediate measures to preserve safety and/or protection from threatening circumstances while a situation is being resolved, investigated, or decided.

Such measures which can only be carried out by the president or designate, should not be viewed as judgment of the credibility of the complainant or the respondent.

5. Discipline Options

Discipline is appropriate to the offense and relevant circumstances of the case and is applied after an admission or judgment of wrongdoing. Considerations in determining discipline may include, but are not

limited to such factors as, previous discipline, precedence set in similar cases, respondent's intent and acknowledgement of wrongdoing, the degree of aggression and physical contact which occurred, the power differential of the parties, numbers of events, impact of the harassment on the complainant, and the need to prevent the repetition of proved harassment towards the complainant or others.

6. Options Available outside the University

Nothing in this policy shall be construed to remove any rights of appeal or rights to grieve that members of the University Community have independent of this policy.

A complainant may at any time consult with or lay a complaint with the Ontario Human Rights Commission independent of the procedures of this policy.

7. Off-Campus Placement

a. Each department or faculty which regularly places students with off-campus organizations should formalize procedures in the event of claims of harassment and/or discrimination in an off-campus work setting.

b. These procedures must allow for clear and consistent response to reports of harassment and/or discrimination on the part of those who oversee the academic and /or work opportunity.

c. These procedures must be made available to every student who will be placed in an off-campus organization as part of a co-operative work program, a field placement, or volunteer service undertaken to fulfill a course requirement.

d. If an individual or an organization wishes to pursue a harassment and/or discrimination complaint against a student of Laurier as a result of actions which occurred during an off-campus placement, such an individual or organization would have the right to make use of the Laurier policies and procedures.

G. Responsibilities of the Harassment/Discrimination Coordinator

1. The harassment/discrimination co-ordinator shall respond to all complaints of harassment and/or discrimination and assist the complainants regarding all available options as outlined in the Harassment / Discrimination Policy.

2. It is the duty of the harassment/discrimination co-ordinator to ensure that the university community is well informed about the nature and consequences of harassment and/or discrimination and the contents of this policy. The performance of this duty shall include, but not be limited to:

a. making available a summary of this policy to all new members of the university community, and to continuing members as necessary;

b. the preparation and distribution of literature explaining and clarifying the terms of this Policy;

c. the provision of individual counselling and/or instruction, concerning issues related to harassment and/or discrimination for members of the University Community who desire such counselling or instruction.

d. maintaining this policy consistent with other agreements of the university.

3. The harassment/discrimination co-ordinator will make an annual report to the president of the number of complaints proceeded with and the resolutions, mediation, and dispositions made under this policy. The president will present his/her report including the report received by the president from the harassment/discrimination co-ordinator to the Board of Governors, together with any recommendations the president may have with respect to matters in the report of the harassment/discrimination co-ordinator or otherwise. This will normally take place at the annual meeting of the Board of Governors.

V. Definitions and Examples

In this Policy:

“Days”

Days excluding days when the University offices are not open.

“Directing Mind”

Employees with supervisory authority or acting as an agent of the institution may be viewed as part of the institution's "directing mind," which means they represent the institution itself.

“Harassment/Discrimination Coordinator”

The individual hired or appointed by the president to receive complaints of harassment and/or discrimination and to implement the procedures of this policy.

“Hazing”

To harass by abusive/humiliating acts.

“Innuendo”

Allusive (usu. depreciatory) remark.

“Mediation”

Facilitation of the process of bringing people to an agreement.

“Mediator”

The individual appointed by the president and agreed upon by the complainant and respondent to mediate a complaint of harassment and/or discrimination under this policy.

“Member”

When printed with an initial upper case means member of the bargaining-unit as defined in the Collective Agreement between Wilfrid Laurier University and Wilfrid Laurier University Faculty Association and/or any member of another union adhering to this policy.

“member”

Includes any student or employee of the university.

“[Ontario Human Rights Code](#)”

References to the Ontario Human Rights Code in this policy refer to the most recent legislated addition of the Code.

“Ontario Occupational Health and Safety Act”

References to the Occupational Health and Safety Act, (R.S.O. 1990, c.O.1) refer to the most recent updated version of the Act, and associated regulations.

“parties”

The complainant(s) and the respondent(s).

“Policy”

The Harassment/Discrimination Policy and Procedures at Wilfrid Laurier University.

“President”

The president of Wilfrid Laurier University.

“Prohibited Grounds”

Race, ancestry, place of origin, colour, ethnic origin (including language, dialect, or accent), citizenship, creed, sex, sexual orientation, disability, age, marital status, family status, the receipt of public assistance, record of provincial offenses or pardoned federal offenses.

“Stalking”

To pursue or approach (enemy) stealthily.

“The University Community”

Includes all of the students, or all of the staff, or all of the faculty and librarian members of the university. Members of Senate, the Board of Governors, and alumni serving on university committees are also included in the university community while on campus or acting as a representative of the university.

For students on co-op work terms or placements, the university will make all reasonable effort to inform students of the university harassment and/or discrimination policy. However, the university cannot assure students on co-op work terms or placements of the enforceability of, or the right to engage in, our harassment and/or discrimination policy and procedures. This caveat would also apply to guests, hosts, consultants or contractors who interact with the university community.