



University College of the North

Policies & Procedures Manual

Pages:

Page 1 of 7

Policy Number:

HR-05-07

Approved by:

President's Council

Section:

Human Resources – Employee Relations

Effective Date:

October 11, 2022

Title:

Respectful Work and Learning Environment

Replaces:

HR-05-07 (May 10, 2021)

POLICY STATEMENT

University College of the North (UCN) is committed to providing a respectful, healthy and safe work and learning environment, where all members of the UCN community are free from discrimination and harassment.

PURPOSE OF POLICY

Every member of the UCN community is required to display respectful behaviour at all times as outlined in The Human Rights Code, The Workplace Safety and Health Act and Regulations, and the UCN Code of Ethics. The purpose of this policy is to provide information about how to effectively address, report, and resolve concerns related to a respectful work and learning environment, including harassment and discrimination.

1. DEFINITIONS

- 1.1 **Bullying**, which is often referred to as Personal Harassment is defined as frequent or persistent negative actions or comments directed towards an individual or group of individuals that are inappropriate, demeaning or otherwise offensive and that reasonably creates an uncomfortable, hostile, or intimidating workplace or learning environment.

Bullying can include but is not limited to: repeated refusal to speak to someone, frequent and inappropriate avoidance of someone, persistent exclusion from workplace informational discussions or College social events, deliberately insensitive comments, deliberately and repeatedly setting tasks unreasonably below or beyond a person's job duties and skill level, spreading rumours or malicious gossip, belittling comments or behaviours, acts of lateral violence, yelling, screaming, swearing at another individual, rude and inappropriate gestures, slamming doors, throwing objects, verbal threats, physical intimidation, unwanted physical contact, or violent behaviour.

- 1.2 **Complainant** means an individual(s) who files a complaint under this policy.

- 1.3 **Discrimination** is defined under the Manitoba Human Rights Code ("the Code") as:

- (a) differential treatment of an individual on the basis of the individual's actual or presumed membership in or association with some class or group of persons, rather than on the basis of personal merit; or
- (b) differential treatment of an individual or group on the basis of any characteristic protected under the Code. These characteristics are:
 - ancestry, including colour and race;
 - nationality;
 - ethnic background or origin;
 - religion or creed, or religious belief, religious association or religious activity;
 - age;
 - sex, including pregnancy;
 - gender-identify

- sexual orientation;
- marital or family status;
- source of income, including funding, financial and/or economic status;
- political belief, association or activity;
- physical or mental disability
- social disadvantage

- (c) differential treatment of an individual or group on the basis of the individual's or group's actual or presumed association with another individual or group whose identity or membership is determined by any characteristic protected under the Code;
- (d) failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any characteristic protected under the Code;
- (e) discrimination in systems or procedures that have an adverse effect on an individual or group on the bases of any characteristic protected under the Code as per 1.2 (b) of this policy is considered systemic discrimination and must be addressed;
- (f) it is not discrimination to adopt or implement special measures to deal with historical or systemic discrimination through employment equity, diversity and inclusion policies or programs, or to make required reasonable accommodation for individuals or groups on the basis of any protected characteristic under the Code.

1.4 **Disrespectful Behaviour** is disruptive to positive and courteous communication and collaborative working relationships. Behaviour is also considered disrespectful if it does not value diversity, inclusion, dignity and fairness. More objectionable and severe forms of disrespectful behaviour may be considered harassment (psychological/personal harassment or bullying).

1.5 **Harassment** includes two definitions:

- (a) under the Manitoba Human Rights Code, "Harassment" is defined as:
 - a course of abusive and unwelcome conduct or comment undertaken or made on the basis of any characteristic referred to in section 1.2 (b) of this policy;
 - a series of objectionable and unwelcome sexual solicitations or advances; or
 - a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought to reasonably know that it is unwelcome; or
 - a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.
- (b) under the Manitoba Workplace Safety and Health Act/Regulation, "Harassment" (bullying or psychological/personal harassment) is defined as:
 - objectionable conduct that creates a risk to the health of a worker. Conduct is considered objectionable, if it is based on race, creed, religion, colour, sex, sexual orientation, gender-determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry or place of origin;
 - severe conduct that adversely affects a worker's psychological or physical well-being. Conduct is considered "severe", if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on an individual. Psychological/Personal Harassment or Bullying is not based on any of the protected characteristics under the Manitoba Human Rights Code;
 - the Regulation clarifies that conduct includes written or verbal comments, a physical act or gesture or a display, or any combination of these.

1.6 **Conflict Resolution Advisor** means the Director of Human Resources or designate (which may include qualified individuals internal or external to UCN).

- 1.7 **Respectful Behaviour** means behaviour that values dignity, diversity, inclusion, courteous and civil conduct, mutual respect and fairness. Respectful behaviour promotes positive communication in an environment which invites collaborative working relationships.
- 1.8 **Respondent** means the individual(s) required to respond to a complaint under this policy.
- 1.9 **Sexual Harassment** is harassment based on sex or creating or permitting a sexualized or sexually charged, negative work atmosphere. Sexual harassment usually (but not always) occurs where there is a power imbalance between the people involved.
- Sexual harassment includes offensive or humiliating behaviour that is related to a person's gender, or behaviour that could reasonably be seen as putting conditions on a person's job or employment, housing or service opportunities.
- The Human Rights Code definition of harassment includes sexual harassment. Allegations of sexual harassment may be managed under this policy, or as referenced in UCN policy *WS-01-14 Prevention of Sexual Violence*.
- 1.10 **Supervisor** for the purposes of this policy refers to any employee who supervises another employee, and students are considered workers under the supervision of Faculty Members.
- 1.11 **UCN Community** is defined as all employees and students, as well as all members of the Governing Council, Learning Council, Council of Elders and any contractors, visitors, volunteers and members of the public visiting or utilizing UCN property or services.

2. APPLICATION OF POLICY

- 2.1 This policy applies to all members of the UCN Community.
- 2.2 This policy applies to all physical or electronic activities on UCN premises, as well as to work and learning assignments outside of UCN's premises including but not limited to, work-related travel, conferences, practicum placements, training sessions and staff or student social functions which are in connection to UCN.
- 2.3 This policy is not intended to be used in situations where behaviours are considered of a violent nature as defined by UCN policy *WS-01-11 Violence in the Workplace*. In such situations, the Violence in the Workplace policy shall apply. UCN policy *WS-01-14 Prevention of Sexual Violence* shall apply in incidents of sexual violence.
- 2.4 This policy does not discourage or prevent members of the UCN Community from exercising any legal rights available to them, including filing a complaint with the Manitoba Human Rights Commission.

3. PROCEDURES

- 3.1 Incidents of disrespectful behavior, harassment or discrimination involving students may be considered a breach of this policy, as well as UCN policy *AC-01-28 Student Code of Rights and Responsibilities*.
- (a) A student who believes that they have been subjected to inappropriate behaviour at UCN is encouraged to bring their concern forward and seek assistance and support from anyone at UCN with whom they feel comfortable sharing the information. Students can contact a faculty member, Dean, Student Counsellor, Academic Advisor, or Campus Elder/Knowledge Keeper. Students are not required to file a complaint to seek supports but they can discuss options to address concerns brought forward.
- (b) If a student is alleged to have breached this policy and UCN policy *AC-01-28 Student Code of Rights and Responsibilities*, an investigation will be undertaken by the appropriate UCN Authority as outlined in UCN policy *AC-01-27 Academic Discipline*.
- 3.2 Incidents of disrespectful behaviour, harassment or discrimination involving employees can be resolved through an informal resolution process and/or through the formal complaint process, as outlined in the Respectful Work and Learning Environment Procedures Manual.
- (a) The Conflict Resolution Advisor shall establish, update and communicate the

Respectful Work and Learning Environment Procedures Manual to address allegations or concerns regarding disrespectful behaviour, harassment and discrimination, and which incorporate:

- the informal resolution and formal complaint processes to report and address concerns;
- how management will timely address and appropriately respond to alleged incidents;
- how information and results will be communicated throughout the complaint process; and
- what measures are in place to respect confidentiality throughout the resolution and complaint process.

3.3 Filing a formal complaint under this policy must be made within twelve (12) months of the alleged behaviour, although Complainants are encouraged to report incidents as soon as possible after they occur, as this assists with the ability to address the issue, and/or to investigate. This limitation period may be extended in extenuating circumstances.

4. RESPONSIBILITIES

4.1 **Employers** have a responsibility to:

- (a) provide a respectful, healthy and safe work and learning environment free from harassment and discrimination;
- (b) ensure all employees and students are made aware of their rights and responsibilities under this policy;
- (c) educate the UCN community regarding interactions that promote a respectful work and learning environment and raise awareness around harassment and discrimination.

4.2 **Employees and Students** have a responsibility to:

- (a) demonstrate respectful behaviour at all times;
- (b) report any type of inappropriate behaviour that could reasonably be perceived to be disrespectful, harassment of any type, or discrimination;
- (c) cooperate in the informal or formal resolution process as required as a Complainant, Respondent or potential witness.

4.3 **Management, Supervisors and Faculty Members** have a responsibility to:

- (a) foster a respectful, healthy and safe work and learning environment that is free from harassment and discrimination at all times;
- (b) ensure that any issue of concerning behaviour that they are aware of is timely addressed and managed in accordance with this policy and associated procedures, regardless of whether or not a complaint has been made.
- (c) document all information related to a concern under this policy and advise the Conflict Resolution Advisor of any complaint of disrespectful behaviour, harassment or discrimination to determine the appropriate response;
- (d) ensure there is no retaliation against and individual involved in a complaint process;
- (e) ensure that the work and learning environment restoration measures are put into place following the resolution of a complaint.

4.4 **Conflict Resolution Advisor or designate** (which may include qualified individuals external to UCN) must:

- (a) direct and manage the resolution and complaint process, including conducting formal investigations as required;

- (b) ensure due process to all parties in a complaint process, and ensure that complaints and all actions taken to resolve complaints are handled in a confidential, impartial and unbiased manner;
- (c) provide the Chief Administrative Officer (CAO) and/or the Vice-President Academic and Research (VPAR) with confidential notice of each incident of disrespectful behaviour, harassment and discrimination, as well as the outcome of each complaint process and formal investigations.

5. CONFIDENTIALITY

- 5.1 The investigator and any other individuals involved in the complaint process will comply with the Freedom of Information and Protection of Privacy Act (FIPPA) and the Personal Health Information Act (PHIA). The investigator will advise each individual involved with the investigation of their obligations involving confidentiality, as well as the protections available to them as per this policy.
- 5.2 Confidentiality does not necessarily mean anonymity. Information will need to be disclosed as necessary for the purposes of investigating a complaint, to take corrective action where necessary, or as required by law.
- 5.3 All documentation related to complaints under this policy will be managed with the utmost respect for confidentiality and due process. Such documentation is kept separate from the official student or employee file during the course of any related investigation. Where the findings of an investigation result in a violation of this policy, documentation related to any corrective action (or the Complainant's file in the case of a malicious or vexatious complaint) will be placed in the appropriate employee file.

6. BREACH IN POLICY

- 6.1 Any individual found to be in violation of this policy will be subject to appropriate corrective action.

7. APPEAL / GRIEVANCE PROCESS

- 7.1 A student who wishes to appeal any corrective action taken based on the complaint process and findings under this policy may file an appeal in accordance with the procedures set out in UCN policy *AC-01-06 Academic and Disciplinary Appeals*.
- 7.2 A unionized employee has the right to file a grievance as per the grievance and arbitration process of the Collective Agreement. An employee who is not a member of a union, has the right to file a grievance as per the Terms and Conditions for excluded employees. A contractor has the right to appeal as per any written contract in place related to their employment.
- 7.3 A Council member may file an appeal with the Governing Council.
- 7.4 A volunteer, visitor or member of the general public may file an appeal with the CAO or the VPAR.

8. RETALIATION OR REPRISAL

- 8.1 Retaliation or reprisal of any sort against an individual who has brought forward a concern relating to a disrespectful work or learning environment, filed a complaint of harassment or discrimination, or who has been involved in the complaint process will not be tolerated.
- 8.2 Any allegations of retaliation shall be reported immediately to the Conflict Resolution Advisor and shall be subject to immediate investigation. Examples of retaliation may include, but are not limited to:
 - threat of or actual impact on academic grades or standing;
 - threat of or actual demotion or involuntary transfer;
 - future negative implications for entrance to other UCN programs or services;

- future negative implications for employment, training or promotion;
- isolating or excluding the parties to a complaint from study or work-related activities.

9. FALSE, BAD FAITH, MALICIOUS OR VEXATIOUS COMPLAINTS

- 9.1 Where a complaint made under this policy is determined to be false or filed in bad faith, or deliberately filed in a malicious or vexatious manner to damage the reputation of an individual or group, this may be considered harassment, and the Complainant may be found in violation of this policy. Complaints made in good faith, but which are ultimately found to be without merit are not to be considered malicious or vexatious.

10. ANONYMOUS DISCLOSURES

- 10.1 Where a supervisor or the Conflict Resolution Advisor receives an anonymous disclosure of disrespectful, harassing or discriminatory behaviour, they will assess and address the situation to the best of their ability to ensure a safe and respectful work and learning environment is maintained. There are limitations to resolving or investigating an anonymous disclosure which include:
- follow-up that is required to verify facts may not be conducted with the Complainant, and this impacts the ability to investigate the matter.
 - insufficient evidence and/or corroborating support through witnesses impacts the ability to fully investigate.
 - The anonymity of a Complainant cannot be guaranteed, as details uncovered during any such investigation could lead to speculation or knowledge of the disclosing individual.
 - The Complainant may not be made aware of the outcome of any investigation related to an anonymous disclosure.

11. PREVENTION THROUGH EDUCATION

- 11.1 The prevention of disrespectful, harassing and discriminatory behaviour through education and training is a required and crucial element of this policy. The Conflict Resolution Advisor or designate (which may include qualified individuals external to UCN), in consultation with other relevant managers (i.e. Vice-President Academic and Research and/or Dean of Students) will ensure that education and training on this policy will be provided by UCN.

RELATED POLICIES

AC-01-06 Academic and Disciplinary Appeals
 AC-01-27 Student Discipline
 AC-01-28 Student Code of Rights and Responsibilities
 WS-01-11 Violence in the Workplace
 WS-01-14 Prevention of Sexual Violence

RELATED DOCUMENTS

Respectful Work and Learning Process Summary
 Respectful Work and Learning Procedures Guide
 UCN Code of Ethics
 Employee and Family Assistance Program

REFERENCES

Government of Manitoba. *The Human Rights Code*.
<https://web2.gov.mb.ca/laws/statutes/ccsm/h175e.php>

Government of Manitoba. *The Workplace Safety and Health Act and Regulation*.
<https://web2.gov.mb.ca/laws/statutes/ccsm/w210e.php>

Government of Manitoba. *The Labour Relations Act*.
<https://web2.gov.mb.ca/laws/statutes/ccsm/l010e.php>

Government of Manitoba. *The Freedom of Information and Protection of Privacy Act*.
<https://web2.gov.mb.ca/laws/statutes/ccsm/f175e.php>

Government of Manitoba. *The Personal Health Information Act*.
<https://web2.gov.mb.ca/laws/statutes/ccsm/p033-5e.php>

Government of Manitoba. *The Advanced Education Administration Act*.
<https://web2.gov.mb.ca/laws/statutes/ccsm/a006-3e.php>