

 <p>BRANDON UNIVERSITY Founded 1899</p>	<p align="center">Discrimination and Harassment Prevention Policy</p>	<p><i>First Approved:</i> <i>June 24, 2017</i></p>
		<p><i>Updated:</i> <i>March 2019</i></p>
<p><i>Board of Governors Policy</i></p>	<p><i>Approved by Board of Governors</i> <i>Administered by Vice-President, Administration & Finance</i></p>	<p><i>Reviewed:</i></p>

1. Introduction

Brandon University is committed to maintaining a productive and respectful work and learning environment and believes it is the right of all employees and students to work and study in an environment free of discrimination and harassment. To this end, the University will make best efforts to prevent the occurrence of discrimination and harassment through education, training, and early resolution of conflict in the workplace.

In positive terms, all members of the University community should strive to:

- a. respect and value the diversity of people, values and beliefs represented;
- b. preserve the dignity of others in all interactions;
- c. act in a courteous manner at all times;
- d. engage in communication that is solution-focused; and
- e. collaborate with colleagues where appropriate.

When a concern is brought forward, the first step will be for the Diversity and Human Rights Advisor (DHRA) to determine if the issue is best dealt with under the processes outlined in the *Guide to Resolving Conflict at Brandon University* or if it falls under the *Discrimination and Harassment Prevention Policy*.

2. Responsibilities Under this Policy

Brandon University is committed to combatting discrimination and harassment through raising awareness and providing training to employees and students on the *Manitoba Human Rights Code (MHRC)*, the *Workplace Safety and Health Act and Regulations (WSH Act and Regulations)*, and responding to incidents of discrimination and harassment.

Brandon University has a responsibility to prevent acts of discrimination and harassment and to address them when they happen. Even in cases where no report has been filed, the University has a duty, under the *WSH Act and Regulations*, to respond to incidents that appear to be discriminatory or harassing in nature. For example, a University initiated investigation may be necessary in situations where there are repeated concerns about the same individual or where there is evidence of an unhealthy work environment in an area of the University.

Where a member of the University community, especially anyone in a leadership, management or supervisory role, is aware of acts of discrimination or harassment and fails to take action to address the behaviour they may be subject to penalties under this policy or under the *WSH Act and Regulations*.

For detailed information on the roles and responsibilities of particular groups or individuals, see APPENDIX A: ROLES AND RESPONSIBILITIES.

3. Manitoba Legislation and this Policy

At Brandon University the *Discrimination and Harassment Prevention Policy* and related procedures are informed and guided by the *MHRC* and the *WSH Act and Regulations*. These two pieces of legislation apply to and prevail over all provincial legislation (with few exceptions), as well as over University policies and collective agreements. Subject to applicable legislation, all processes in this policy shall be pursued in accordance with the respective collective agreements entered into between the University and its employees and all University Policies and Procedures.

The *MHRC* governs any discrimination or harassment that is based on the “prohibited grounds” listed in the Code. The *WSH Act and Regulations* prohibit both harassment based on the prohibited grounds, and what will be termed here as “Personal Harassment”, and also speaks to what is not considered harassment. The *MHRC* applies to the University as a workplace, a service to the public and a housing provider.

For detailed definitions of Discrimination, Harassment and other pertinent terms, see APPENDIX A: DEFINITIONS

4. Guiding Principles

a) Shared responsibility

Preventing and stopping discriminatory/harassing behaviour at Brandon University requires that all members of the University community work together to behave in a respectful and collegial manner, and to address disrespectful or unproductive behaviour when it happens.

b) Laws of Natural Justice

The implementation of this policy will be conducted based on the laws of natural justice. This means that the respondent has the right to know the allegations against them in full detail, and the right to reply to these allegations. It also means that anyone investigating a concern or complaint must endeavour to remain neutral and avoid allowing any personal bias to influence their decisions. Remedial or punitive actions resulting from the implementation of this policy will be based on evidence, and that evidence will be shared with both the complainant and respondent.

c) Problem solving versus punitive action

The main purpose of the *Discrimination and Harassment Prevention Policy and Procedures* is to assist with resolving issues. While it is recognized that sanctions are sometimes necessary and effective, a process that encourages discussion and a negotiated agreement is preferred where possible.

5. Scope and Application of This Policy

Every member of the Brandon University community has both the right to work and study in an environment that is free from discrimination and harassment, and the responsibility to maintain a discrimination and harassment free environment. This policy applies to all members of the Brandon University community, which includes all employees, students, contractors and suppliers of services, volunteers, visitors, and individuals who are connected to any University initiatives. This policy applies to all members of the University community in their interaction with other members of the University community. The context of the interaction need not be University-related if the parties' primary relationship is through their mutual connection to the University.

Behaviours which constitute discrimination and harassment, which impact the work and/or study environment of a member of the Brandon University community, may be covered by this policy even though they may occur outside the normal working hours, or during off-campus activities such as work, athletic, or academic related travel, campus related social functions, or work or academic assignments or placements. Conduct on social media or communication through electronic means may constitute a breach of this policy.

It is important to note that a harassing or discriminatory act can be unintentional, and still warrant action under this policy. Where the actions of an individual or group have the effect of harassing or discriminating against a member of the University community, whether intended or not, the "reasonable person test" may be used to determine whether they should have known that their actions were unwelcome and would cause harm to the member.

6. Education and Communication

The cornerstone of prevention efforts is education. Brandon University is committed to promoting the principles of diversity and human rights through education and conversation in many forums and formats throughout the community on an ongoing basis. The DHRA will coordinate and deliver a program that raises awareness of:

- a) forms of discrimination, including both direct and systemic discrimination,
- b) the damage that discrimination and harassment cause to both the individual and to the University,
- c) how to prevent discrimination and harassment, and
- d) what to do about discrimination and harassment when they occur.

7. Confidentiality

Brandon University recognizes the importance of confidentiality, and issues brought to the DHRA will be treated as confidential. All information collected as a result of any action under this policy will be managed in accordance with *The Freedom of Information and Protection of Privacy Act (FIPPA)* and *Personal Health Information Protection Act (PHIA)* as applicable.

8. Academic Freedom

Brandon University recognizes that, as an academic and free community, it must uphold its fundamental commitments to academic freedom and freedom of thought, inquiry and expression. Therefore, this policy will not be interpreted, administered or applied to infringe upon these freedoms. These freedoms, however, must be exercised in a responsible manner and are subject to limits prescribed by law, including those related to human rights, and workplace safety and health legislation. Members of the University community, in exercising their academic freedom and freedom of thought, inquiry and expression, shall respect the rights and dignity of others, and not engage in actions that deny equality to, or harass others.

9. Review

As is required by Workplace Safety and Health Legislation, this policy and the associated procedures will be reviewed, at a minimum, every 3 years, with any changes requiring approval by the Board of Governors. In the intervening time periods between these reviews, the procedures may be updated or revised by the DHRA as needed, following consultation with unions and other stakeholders. Changes to both the policy and procedures will be tracked and summarized in an attached document.

10. Related Policies and Procedures

- a. Discrimination and Harassment Prevention Procedures
- b. Guide to Resolving Conflict at Brandon University
- c. Manitoba Human Rights Code, C.C.S.M. c. H175;
- d. Workplace Safety and Health Act and Regulation of Manitoba 217/2006.
- e. Sexualized Violence Prevention Policy
- f. Collective Agreements
- g. Guide to Investigations at Brandon University
- h. Records Management Policy
- i. Freedom of Information and Protection of Privacy Act
- j. Personal Health Information Act

Brandon University

Discrimination and Harassment Prevention Procedures

1. Purpose

The Discrimination and Harassment Prevention Policy and related procedures are based on principles of fairness and due process for all parties involved in any human rights proceeding at Brandon University. These procedures are in place to implement the Discrimination and Harassment Prevention Policy. The University's Discrimination and Harassment Prevention Policy was established to support a climate of mutual respect in the workplace and learning environment so that all members of the University community are free from discrimination and harassment.

These procedures apply to cases of direct and systemic discrimination, discrimination-based harassment and personal harassment. Cases of sexual harassment fall under Brandon University's Sexualized Violence Policy.

2. Recourse Options

This Policy and Procedure does not limit the right of a member of the University community to file a complaint with the Manitoba Human Rights Commission. This Policy and Procedure is not intended to discourage the complainant from exercising any other rights under the law. Members of the University community retain the right to address issues through the grievance process outlined in their respective collective agreement or through other University policies. It is possible to pursue more than one of these options at a time.

3. General

Any party to a complaint has the right to have another individual accompany them to interviews or other meetings required under this procedure. This may include union/association representative, student advocate, elder, friend, relative, or other. Interpretation or translation services will be provided where needed.

Complaints submitted anonymously cannot be used on their own in any disciplinary action against the respondent, though they may prompt further inquiry by the University.

Complaints should be brought forward to the Diversity and Human Rights Advisor (DHRA) at the earliest possible date to prevent further harm and to increase the chance of an early and positive resolution. Complaints should be made within 12 months of the offending

behaviour. Extenuating circumstances may delay the reporting of concerns, so members of the University community are encouraged to contact the DHRA if they wish to file a complaint either within or beyond the 12 month time frame.

Complainants may choose to withdraw their complaint or resolve it through other means at any point in this procedure. Under some circumstances the University may find it necessary to continue with an investigation or to consider other action.

Complaints which are found to be malicious or made in bad faith may, in turn, be treated as harassment under this Policy and Procedure.

4. Consultation

Anyone who believes they have been subject to discrimination and/or harassment, or anyone who receives an inquiry or concern about discrimination and/or harassment from a member of the Brandon University community should consult the *Guide to Resolving Conflict at Brandon University*. This guide contains information to assist determining whether a complaint meets the threshold for discrimination and/or harassment. The DHRA can help members of the University Community in making this determination. Others who may be available to consult on these issues include Human Resources Officers, Student Services Personnel, BUSU, union representatives, direct supervisors, Department Chairs, Deans or Directors.

When a concern has been brought to a member of the University community, they are encouraged to give the complainant a copy of the Discrimination and Harassment Prevention Policy and Procedures (the Policy and Procedures) and assist the complainant in contacting the DHRA.

The DHRA, in consultation with the Chief Human Resources Officer, may recommend engaging an external investigator at any point during this procedure. Potential reasons for engaging an external investigator include, but are not limited to:

- nature or complexity of the case is beyond the expertise of the DHRA.
- the DHRA has a conflict of interest in the case leading to real or perceived bias.
- workload of DHRA would preclude a timely resolution.

5. Confidentiality

Brandon University recognizes the importance of confidentiality, and issues brought to the DHRA will be treated as confidential. All information collected as a result of any action under this policy will be managed in accordance with *The Freedom of Information and Protection of Privacy Act* and *Personal Health Information Protection Act* as applicable.

Confidentiality must be balanced with the University's legal obligations to address discrimination and harassment, so at times information will need to be shared in order to

investigate a matter, to address a risk or threat, or to comply with requests from legal entities. This confidentiality extends to any member of the University community who may be privy to information or who possesses documentation about a complaint or investigation. Breaches of confidentiality may be subject to penalties.

Confidentiality should not be confused with anonymity. Those who bring forward a concern and wish for action to be taken on their concern must be prepared to be identified as the complainant. The University will make every attempt to ensure that there are no reprisals against anyone making a complaint under this policy or participating in an investigation.

The DHRA will provide a summative report of issues dealt with under the *Discrimination and Harassment Prevention Policy and Procedures* to the President on a yearly basis. This report will not include personal information about the complainant, respondent or other parties to an incident or investigation. It will not include other details, such as department or job titles, which could lead to the identification of any of the parties.

6. Complaint/Investigation Process

The University strives to resolve complaints as quickly as possible. A complaint is considered submitted once it is received by the DHRA in writing on the appropriate form and signed by the complainant. The term “investigator” in this section is used to refer to either an internal investigator (normally the DHRA) or an external investigator.

STEP 1: WRITTEN COMPLAINT

Where the consultation indicates that the concern should be dealt with under the Discrimination and Harassment Prevention Policy and Procedures, and the complainant wants the University to take action, they must file a written complaint with the DHRA. The form is available online. The DHRA can provide guidance on what information should be included in the complaint. If the written complaint lacks sufficient detail to determine if it falls under this Policy the investigator may request that the complaint be clarified and resubmitted.

As the university has a responsibility to ensure the work and learning environment are free of discrimination and harassment, there are times when an investigation must be conducted even when no complainant comes forward. In this instance the University will document the alleged discriminatory and/or harassing behaviour so that the respondent is afforded due process and is presented with the allegations prior to being asked to respond.

At the earliest stage of contact with the complainant, the investigator will consider whether there needs to be interim measures put in place to safeguard the physical and psychological safety of all parties. This may involve sharing limited information with supervisors/faculty members or others so that the involved parties may be kept separate or other measures put in place.

The complaint will be addressed through alternate means if the investigator determines that the written complaint:

- seems to fall under the heading of “interpersonal conflict”. The investigator will inform the complainant of this, and will review options for resolving the concern through other means, such as the Guide to Resolving Conflict at Brandon University.

The complaint may not proceed to Step 2 if the investigator determines the written complaint:

- is based on events occurring more than 12 months prior to the complaint being filed. The complaint may either be dismissed as “out of time” or accepted where the delay in reporting is due to extenuating circumstances.
- is trivial, frivolous, malicious, or made in bad faith. The investigator will advise the complainant of this and may recommend that the complaint not be addressed. Malicious or bad faith complaints may be considered personal harassment under this policy and procedure.

The complaint will move forward to Step 2 if the investigator determines that the written complaint:

- seems to fall under the heading of direct or systemic discrimination, discrimination- based harassment or “personal harassment”. The investigator will notify the complainant of this and will proceed to Step 2. At this point, the investigator contacts the respondent to inform them of the complaint and to provide them with a copy of the written complaint.

STEP 2: COMPLAINANT AND RESPONDENT INTERVIEWS

The complainant meets with the investigator at the earliest possible time to go over the details of their complaint, to fill in any missing information and to be advised of the process that will be followed. The investigator will compile a summary of allegations based on the written complaint and the information from this interview to provide to the respondent.

The respondent is normally given up to 10 working days to review the summary of allegations and prepare a response before being interviewed by the investigator. The respondent may choose to prepare a written response to the allegations in order to acknowledge or deny the validity of the allegations in whole or in part, provide additional information as well as information identifying any possible witnesses and/or propose a resolution of the complaint.

Alternatively, the respondent may choose not to participate in all or part of these procedures. In this case these procedures will continue without such input from the respondent.

After interviewing both complainant and respondent, the investigator conducts a complaint review to decide on next steps.

STEP3: COMPLAINT REVIEW The investigator will at this point conduct a review of the complaint and may consult with appropriate external or internal resources in order to determine:

- if there needs to be further investigation;
- the scope of that investigation;
- whether the use of an external investigator is required (if not already implemented);
- if the complaint is malicious or made in bad faith, and should be dismissed;
- if additional interim measures are needed to ensure physical/psychological safety of any party; and
- what “appropriate administrators” will decide on the resolution of the complaint

If the information already gathered is sufficient to determine if the Policy was breached, the investigator prepares a Report of Findings, as described in step 5, and provides it to the appropriate administrators. If additional information is needed, either the investigator continues to step 4.

STEP 4: WITNESS INTERVIEWS AND EVIDENCE GATHERING

Where an investigation is required, the Investigator gathers information as quickly as possible, and either the DHRA or the external investigator contacts both the complainant and respondent regularly to inform them of the progress and expected timelines. An internal investigation will normally be completed within 20 working days, and where an external investigator is engaged the investigation will normally be completed within 40 working days. A quick resolution is of great importance, but the need to be thorough and fair takes precedence, so any timelines given are estimates and may be adjusted depending on the circumstances.

Respondents or other parties to a complaint may choose not to participate in an investigation. In such cases the investigation will proceed without their input.

Under Workplace Safety and Health legislation, the University must ensure that no one is subjected to harassment in the workplace, so at times investigations are required even in the absence of a named complainant.

For more detailed information on the process, please see the *Guide to Investigations at Brandon University*.

STEP 5: REPORT OF FINDINGS

The investigator produces a report outlining the alleged breach(es) of the Policy and the relevant evidence pertaining to each allegation. Using the “balance of

probabilities” standard, the report specifies if there is evidence of a breach for each allegation. Implementation of remedial and disciplinary action falls to the appropriate administrators, as identified in step 3. The investigator will normally submit this report to the appropriate administrators no more than 10 working days after the completion of the investigation.

7. Resolution of Complaint

For respondents who are staff and faculty, the Chief Human Resources Officer will normally be involved in the resolution of the complaint. For respondents who are students, the Dean of Students will normally be involved in the resolution of the complaint. For respondents who are members of PAC, the President will normally be involved in the resolution of the complaint. Where the respondent is a member of PEC, the Chairperson of the Board of Governors of Brandon University will normally be involved in the resolution of the complaint.

After a review of the Report of Findings, the appropriate administrators meet with the complainant to inform them of the results of the investigation. The appropriate administrators also meet with the respondent to inform them of the results of the investigation.

No Breach – No Further Action Required

In some circumstances, beyond informing both complainant and respondent that there was no finding of a breach of this policy and procedure, no further action is required from the University. An example would be when the complaint was made in good faith, but resulted from a misunderstanding which has resolved between the complainant and respondent.

No Breach – Remediation and/or Corrective Action Required

Even where it is determined that this policy has not been breached, the behaviour giving rise to the complaint may be contrary to the University’s commitment to maintaining a productive and respectful work and learning environment, or may be in breach of another policy, a collective agreement or legislation. In such a case, Brandon University may find it necessary to remediation or corrective action to address the behaviour. This may include:

- Verbal feedback from the appropriate supervisor/administrator to the respondent to cease the behaviour.
- An opportunity for the complainant to share the impact of the behaviour with the respondent, either directly or through the appropriate administrator.
- Mediation between the complainant and the respondent.
- Corrective action or discipline appropriate to the circumstances.

Breach – Remediation and/or Corrective Action Required

The University takes corrective action respecting any person in the University community who subjects another to discrimination and/or harassment.

These remedies or penalties are meant to prevent further acts of discrimination and/or harassment, and restore the working and learning environment to a positive, respectful space. The nature and severity of the behaviour determines the level of initial response. Repetition of the behaviour following clear communication that it is unwelcome adds to the severity of the response.

Some possible responses to a finding of discriminatory/harassing behaviour may include those listed in the previous section and/or any of the following:

- A written directive from the appropriate supervisor/administrator to the respondent to cease the behaviour, with information about possible consequences should the behaviour continue.
- Education or personal development for the respondent.
- A planned course of supervision and feedback for the respondent by the appropriate administrator.
- A verbal or written apology from the respondent to the complainant.
- Counselling and/or coaching for the respondent.
- Restricted access to a physical area of the University.
- Restrictions on attendance or participation in specific University activities.
- Removal from residence.
- Banning from campus.
- Suspension for a set period of time for students.
- Suspension with or without pay for a set period of time for employees.
- Expulsion for students.
- Dismissal for employees.
- Cancellation of contract for contractors and suppliers of services.

These actions shall be recorded on the respondent's personnel or student file. Disciplinary action is confidential, and the complainant or other parties to the investigation are not normally informed of the nature of such action.

The University will share as much information about remedial and/or disciplinary as is required to maintain the complainant's ongoing physical or psychological safety, or to reduce the possibility of contact between the parties, while still adhering to its obligations under the law, including FIPPA and/ or PHIA. Where remedial action includes some course of education for the respondent, for example, both the complainant and the respondent will receive notification in writing from the appropriate administrator when they are satisfied that this is complete.

8. Malicious Complaints and Retaliation

Maliciously and deliberately making a false complaint under this policy or any other Brandon University policy will be considered an act of harassment and will be treated as such. An unsubstantiated complaint is not by default a malicious or deliberately false complaint.

Retaliating against someone who has made a complaint in good faith under this policy or any other University policy, against someone who has cooperated in good faith in an investigation under this policy or any other University policy or legislation, will also be treated as harassment.

9. Right to Grievances and Appeals

Both parties involved in an investigation have the right to appeal the decision of the investigator.

a) Union members may grieve decisions or actions under this policy through the processes outlined in their respective collective agreements.

b) Students may appeal decisions or actions under this policy directly to the Vice-President (Academic & Provost).

c) Exempt staff may appeal decisions or actions under this policy directly to the Vice-President (Administration & Finance).

d) Members of the President's Executive Council (PEC) may appeal decisions or actions under this policy directly to the Chair of the Board of Governors.

Timelines for grievances are outlined in the relevant collective agreements. Appeals must be brought forward within 15 working days of being informed of the outcome of the investigation. Appeals must be in writing and must outline the grounds for the appeal.

Some possible grounds for grievance or appeal include, but are not limited to:

- bias on the part of the investigator.
- failure to follow the policy and processes outlined in these procedures.
- new substantive information or evidence not made available previously to the investigator.
- errors made by the investigator which likely affected the outcome of the investigation.
- the level or nature of the corrective action.

APPENDIX A: DEFINITIONS

Protected Characteristics

The Protected Characteristics identified in the Manitoba Human Rights Code apply to complaints of discrimination and/or grounds-based harassment. These characteristics are

- i. ancestry, including colour and perceived race;
- ii. nationality or national origin;
- iii. ethnic background or origin;
- iv. religion or creed, or religious belief, association or activity;
- v. age;
- vi. sex including sex-determined characteristics or circumstances;
- vii. gender identity and gender expression*;
- viii. sexual orientation;
- ix. marital or family status;
- x. source of income;
- xi. political belief, political association or political activity (including union affiliation or activity);
- xii. physical or mental disability or related characteristics or circumstances; and
- xiii. social disadvantage.

Where an individual is mistreated because of a relationship or association with someone identified as belonging to any of the above groups, this also infringes on their right to be free from discrimination and harassment.

*Although gender expression is not explicitly mentioned in the *MHRC*, Brandon University recognizes it as a protected characteristic.

Discrimination: The University adopts the definition of discrimination as per the MHRC. The MHRC defines discrimination as pertaining to the areas of employment, living accommodations and access to services where;

- there is differential treatment of people based on the person's actual or presumed membership in, or association with, some class or group of people, rather than on their personal merit; or
- there is differential treatment of an individual or group on the basis of any protected characteristic; or
- there is failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any protected characteristic.

Harassment: The University adopts the definitions of harassment from the MHRC and the WSH Act and Regulations.

Grounds Based Harassment: The MHRC defines harassment as

- a course of abusive and unwelcome conduct or comment based on a protected characteristic; or
- 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 reasonably to know that it is unwelcome; or
- a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.

Personal Harassment: The WSH Act and Regulations interprets personal harassment more broadly as:

- objectionable conduct that creates a risk to the health of a worker: or
- severe conduct that adversely affects a worker's psychological or physical well-being

Conduct is considered to be "objectionable" if it is based on any of the protected characteristics from the MHRC. Conduct based on appearance, physical size or weight can also be deemed "objectionable". 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 a worker. Conduct refers to written or verbal comment, a physical act or gesture or a display, or any combination of these.

Not Harassment: It is important to note that not every interaction that is perceived as negative in the work or learning environment constitutes harassment. For example, the *WSH Act and Regulations* explicitly states that appropriate use of legitimate authority by a supervisor responsible for functions such as performance appraisals, discipline, and directing the work of others is not considered harassment. By extension, the appropriate use of legitimate authority by faculty in determining grades, identifying and preventing inappropriate classroom behaviour, and recommending discipline is not harassment. Interpersonal conflict or disagreements in the work and/or learning environment are not harassment; for assistance in determining if a situation is conflict or discrimination/harassment please see the *Guide to Conflict Resolution at Brandon University*.

Complainant is a person who discusses a concern and/or makes a complaint (an allegation, whether oral or written) of harassment or discrimination under the policy.

Reasonable Person Test is a standard used to decide if an individual used due care in their words or actions. In other words, should that person reasonably have expected their actions or words would do harm to another.

Respondent is a person against whom a complaint has been made under this policy or is the subject of allegations of harassment or discrimination under the policy.

Balance of Probabilities refers to the standard of proof used in deciding harassment complaints. It requires that the evidence be weighed and the decision be made in favour of the side which is more likely to be true. This is in contrast to the “beyond a reasonable doubt” standard used in criminal matters.

Management Rights are implicit rights of management to determine the institution’s mission, budget, and strategy, and to make operational decisions such as work assignments, direction of employees, and hiring of employees.

Student Advocate is a representative appointed by the Brandon University Students’ Union (BUSU) to assist and support students and at the student’s request to assist in resolving complaints under this policy.

APPENDIX B: ROLES AND RESPONSIBILITIES

a) Responsibilities of All Individuals

Every member of the University community must adhere to University policies and support the aim of the University to create a climate of understanding and respect for the dignity and rights of all. Every member of the University community is expected to respect the rights of academic freedom and freedom of thought, inquiry and expression and also to support the University's efforts to ensure that the working and learning environment is free of discrimination and harassment.

b) Responsibilities of President's Executive Council

The President's Executive Council (PEC) at Brandon University includes the President, Vice Presidents, and the Chief Human Resources Officer. These leaders are ultimately responsible for providing and supporting a work and learning environment which is free from harassment and discrimination. PEC will provide resources for the education of members of the University community, lead by example by carrying out their duties in a respectful manner, and ensure that there are policies and procedures in place for addressing instances of discrimination and harassment.

c) Responsibilities of Managers and Supervisors

Managers and supervisors are those who, by virtue of their position at Brandon University, are responsible for overseeing others in the workplace. Managers and supervisors must monitor the work and learning environment for signs that harassment or discrimination are taking place, and take early action to address any concerns they are aware of, even in the absence of a complaint. Managers and supervisors must ensure that their employees are aware of this policy and related procedures and that they are provided opportunities to participate in education and training related to harassment and discrimination. When complaints have been made and corrective actions recommended to address them, it is the manager's or supervisor's responsibility to ensure these corrective actions are implemented and to monitor the situation. Managers and supervisors are expected to take part in learning opportunities, or to consult with the DHRA, to ensure they are appropriately addressing issues of human rights, discrimination, and harassment.

d) Responsibilities of People in Authority

Even those who do not hold a formal leadership or supervisory role hold authority in certain circumstances, and therefore have a responsibility under this policy. For example, faculty members hold authority over students in a classroom and employees who oversee the activities of volunteers hold authority in that context. People in authority are expected to participate in training to ensure they understand their responsibilities in preventing and addressing incidents of discrimination and harassment. People in authority must also ensure, to the extent practicable, that

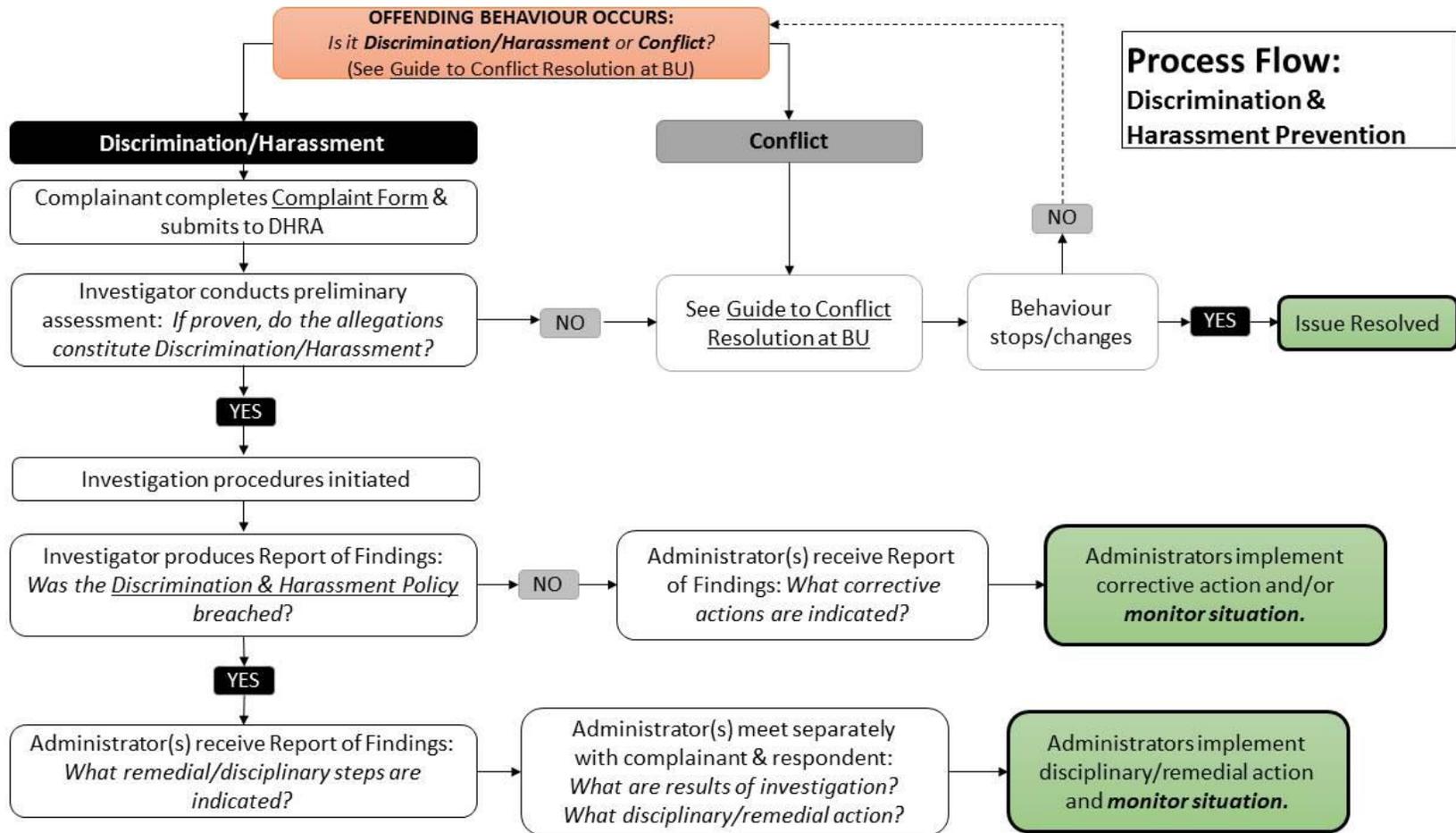
those they oversee are aware of human rights issues and their rights and responsibilities.

e) Responsibilities of the Diversity and Human Rights Advisor (DHRA)

The DHRA is responsible for developing and facilitating education and prevention initiatives around issues of discrimination, harassment, equity, diversity, and human rights. The DHRA provides advice and assistance to all members of the University Community on matters relating to human rights, equity, and diversity. The DHRA may consult, provide guidance for early resolution of issues, provide educational opportunities, facilitate conversations, mediate between parties in conflict, conduct workplace assessments and internal investigations, or coordinate the services of an external facilitator or group in providing any of these services.

This document is available in PDF and Microsoft Word format on the Brandon University website. A printed copy can be obtained from the Diversity and Human Rights Office, Room 333 Clark Hall. Persons involved with the processes outlined in this policy (complainants, witnesses or respondents) may conduct their involvement verbally or with the assistance of an interpreter upon request.

APPENDIX C: Process Flow: Discrimination & Harassment Prevention



Discrimination and Harassment Prevention Policy Revisions – 2019

Section & page # (page #s refer to revised procedure)	Changes	Rationale
Policy and procedures	Policy and procedures merged into one document	Less confusing, less need to repeat same information in both documents....
2. Responsibilities under this policy (pg. 1)	Section abbreviated - details of specific responsibilities of various groups or individuals moved to APPENDIX B	Consistency with similar policies (Sexualized Violence), more succinct policy
3. Manitoba Legislation and this Policy (pg. 2)	Removed definitions of discrimination, harassment, not harassment – all definitions moved to APPENDIX A	two definitions of harassment and discrimination in old policy –redundant and, confusing
	In definitions moved to APPENDIX A – included statement that BU adopts definitions of discrimination from MHRC and definitions of harassment from MHRC and WSH Act and Regulations	clarifies source of authority, definitions consistent with legislation
	Included statement “The MHRC applies to the University as a workplace, a service to the public and a housing provider.”	Important to highlight how the code applies and to highlight both rights and responsibilities of employees
7. Confidentiality (pg. 7)	Abbreviated Confidentiality statement in the policy, greater detail provided in the procedure	Consistency with similar policies (Sexualized Violence), more succinct policy
	FIPPA reference from Sexualized Violence policy added “All information collected as a result of a complaint made under this policy will be managed in accordance with <i>The Freedom of Information and Protection of Privacy Act</i> and <i>Personal Health Information Protection Act</i> as applicable.”	Original policy lacks reference to FIPPA Consistency between similar policies
9. Malicious Complaints and Retaliation (pg. 13)	Moved whole section to procedure	Consistent with most other similar policies reviewed.
10. Definitions (pg. 14)	Moved whole section to APPENDIX A	Consistency with similar policies (Sexualized Violence), more succinct policy

Discrimination and Harassment Prevention Procedure Revisions – 2019

Section & page # (page #s refer to revised procedure)	Changes	Rationale
3. General (pg. 6)	Deadline for filing complaint extended from 6 months to 12	Brings this in line with Human Rights Commission timelines.
4. Consultation (pg. 7)	Add that DHRA, in consultation with CHRO, may recommend external investigator at any point during the process due to - workload, complexity of case, bias or perceived bias...	In practice it is best that one investigator handle complaint start to finish. In old procedure DHRA had to conduct initial interviews with Complainant and respondent .
5. Confidentiality (pg. 7)	Longer confidentiality section moved here from policy	Detailed information on confidentiality more appropriate to procedure – consistency with other similar policies.
	Included FIPPA reference from Sexualized Violence policy “All information collected as a result of a complaint made under this policy will be managed in accordance with <i>The Freedom of Information and Protection of Privacy Act</i> and <i>Personal Health Information Protection Act</i> as applicable.”	Original policy lacks reference to FIPPA Consistency between similar policies.
6. Complaint Process (pg. 8)	renamed Complaint/Investigation Process	added clarity
6. Complaint Process (pg.8)	Included statement “The term ‘investigator’ in this section is used to refer to either an internal investigator (normally the DHRA) or an external investigator.”	Further clarifies that external investigator may be engaged from the beginning of the process.
6. Complaint Process Step 1: Written complaint (pg. 8)	Added sentence “If the written complaint lacks sufficient detail to determine if it falls under this Policy the investigator may request that the complaint be clarified and resubmitted.”	In practice complaints often lack sufficient detail to make decisions regarding prima facie case possible, or complainant indicates “grounds” for the complaint that are not applicable to the situation.
	Inserted information regarding university initiated complaints: “In this instance the University will document the alleged discriminatory and/or harassing behaviour so that the respondent is afforded due process and is presented with the allegations prior to being asked to respond.”	Unclear in old procedure what the respondent would be provided in writing so that they may respond/defend.

	Changed statement “Malicious or bad faith complaints may be subject to sanctions...” to “Malicious or bad faith complaints may be considered personal harassment...”	Clarifies how malicious complaints are dealt with – BUFA feedback that “subject to sanctions” was not clear.
6. Complaint Process Step 2: Complainant and Respondent Interviews (pg. 9)	Added sentence “The investigator will compile a summary of allegations based on the written complaint and the information from this interview to provide to the respondent.”	In practice it makes more sense to present respondent with one document prepared by the investigator, rather than the written complaint plus information from the interview. Complainants often include extraneous information in their complaint that may lead to FIPPA/PHIA or other confidentiality concerns.
6. Complaint Process Step 3: Complaint Review (pg. 10)	Removed Complaint Review Committee from the procedure. Changed to “Complaint review” in which investigator reviews status of complaint and “may consult with appropriate external or internal resources”	Issues with CRC model included: confidentiality issues for those involved, lack of timeliness in responding to complaints, CRC members not experts in this field, often have little to say/add – consult with legal, other investigators instead.
6. Complaint Process Step 5: Report of Findings (pg. 10)	Changed statements like “the Chief Human Resources officer will always be involved in the resolution of the complaint” to “the Chief Human Resources officer will normally be involved in the resolution of the complaint”	There may be conflicts of interest or other situations where this may not be the case.
6. Complaint Process Step 6: Resolution of complaint (pg. 11)	Change to separate section <u>7. Resolution of Complaint</u>	This is not part of the complaint/investigation process. Draws a line between where the investigator finishes with finding of facts and administrators step in to determine next steps.
	New section added: <u>No Breach - No Further Action Required</u>	In practice there are times when no action beyond investigating and providing feedback is necessary.
	Renamed: <u>No Breach – Remediation and/or Corrective Action Required</u>	Original procedure unclear about situations where university action may be required, up to and including potential corrective action or discipline.
	Renamed: <u>Breach – Remediation and/or Corrective Action Required</u>	
	Renamed: <u>Breach – Remediation and/or Corrective Action Required</u>	

	Last Paragraph of section – added example “For example, if a respondent is expected to attend some form of training, the complainant will be informed when this has taken place.”	Previously unclear to readers what this was referring to.
8. Malicious Complaints and Retaliation (pg. 13)	Section moved from policy to procedure. Sentence added “An unsubstantiated complaint is not by default a malicious or deliberately false complaint.”	Important to understand the difference between not finding evidence to support a complaint and the complaint being filed with intent to harm the respondent.
7. Right to Grievances and Appeals (pg. 13)	Changed to section 9.	
	Replaced 1 st paragraph with text from SVP “Both parties involved in an investigation have the right to appeal the decision of the investigator. a) Union members may grieve decisions or actions under this policy through the processes outlined in their respective collective agreements. b) Students may appeal decisions or actions under this policy directly to the Vice-President (Academic & Provost). c) Exempt staff may appeal decisions or actions under this policy directly to the Vice-President (Administration & Finance). d) Members of the President’s Executive Council (PEC) may appeal decisions or actions under this policy directly to the Chair of the Board of Governors.	Clarity and consistency with similar policies.
APPENDIX A: Definitions (pg. 14)	Definitions from both policy and procedure moved to APPENDIX A.	Consistency with SVP, briefer policy, two definitions originally offered for discrimination and harassment (one formerly in Section 3. of policy and one in Section 10. of policy).

	Definitions of Discrimination, grounds based harassment and personal harassment edited to mention and more closely align with the wording of the relevant legislation.	Clearer definitions that point to the governing legislation.
	Removed definition of Complaint Review Committee.	This committee no longer part of the process.
APPENDIX B: Roles and Responsibilities (pg.17)	Content unchanged, just moved into appendix from the body of the Policy.	Consistency with SVP, briefer policy.
APPENDIX C: Process Flow: Discrimination & Harassment prevention (pg. 19)	Process flow chart revised to horizontal format, somewhat abbreviated.	easier to read, assigned "Appendix C" for ease of reference, consistency with Definitions and Roles and Responsibilities appendices