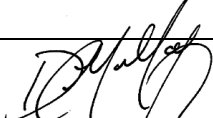


POLICY TITLE: Harassment and Discrimination	POLICY SECTION: Human Resources	POLICY NO: 2.5
RELATED BOARD POLICY:		
RELEVANT LEGISLATION:	Employment Standards Act Occupational Health and Safety Act	
PRIMARY APPROVER:	President	
SECONDARY APPROVER:	Director of Human Resources	
RESPONSIBLE AUTHORITY:	Human Resources	
DATE APPROVED:	September 27, 1995	
DATE(S) REVIEWED / REVISED:	January 2023	
POLICY REVIEW - FREQUENCY:	To be reviewed every three years.	
APPROVER SIGNATURE(S):		

1. Purpose

- 1.1. This policy responds to King's University College's commitment to provide, in accordance with its mission for King's University College and the Ontario Human Rights Code, as well as the Ontario Occupational Health and Safety Act, a workplace and learning environment free of harassment and discrimination.
- 1.2. In the implementation of the policy, the King's community is guided by the following principles:
 - 1.2.1. Every member of the King's community has a responsibility to assist in creating and maintaining an environment that is free from harassment and discrimination. Both work and learning can best be accomplished in an environment of understanding and mutual respect for the dignity and rights of each individual.
 - 1.2.2. The rights and dignity of each individual are respected. King's is committed to ensuring equality through its formal policies and procedures.
 - 1.2.3. The values of academic freedom, procedural fairness, and collegiality at King's is respected.
 - 1.2.4. As the essential functions of King's are the pursuit, creation, and dissemination of knowledge and understanding through teaching and research, academic freedom is an essential characteristic of King's. For faculty members, academic freedom ensures the right to teach, investigate, and speculate without deference to prescribed doctrine. The right to academic freedom carries with it the responsibility to use that freedom in a responsible

and ethical way. This policy is not to be implemented in a manner that unfairly limits academic freedom and its responsible use.

- 1.2.5. Education and mediation are the principal means of promoting and enforcing the policy. The policy recognizes the independence of King's and its preference to work out its own solutions internally.
- 1.2.6. The needs of the whole King's community, not just the needs of any single constituency must be served. The policy is balanced in its conception and in its administration. Its application shall not violate existing King's employment agreements and policies.

2. Scope of the Policy

- 2.1. This policy applies to all employees and departments of King's University College.

3. Definitions

- 3.1. **Discrimination** means a distinction, intentional or not, based on a prohibited ground, which has the effect of imposing burdens, obligations, or disadvantages on an individual or group not imposed on others, or which withholds or limits access to opportunities, benefits and advantages available to other members of society.
- 3.2. **Prohibited ground** means any of the following; race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability. Such additional grounds as may be designated as prohibited grounds in the Ontario Human Rights Code from time to time.
- 3.3. **Harassment** means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Harassment may be related to one or more of the prohibited grounds defined at section 2, and/or may include conduct and/or behaviours, which create intimidating, demeaning or hostile working or academic environment whether or not it is based on the prohibited grounds. Harassment includes Sexual Harassment, as defined herein.
 - 3.3.1. Examples of harassment could include, but are not limited to:
 - 3.3.1.1. Bullying, insulting, taunting or ostracizing;
 - 3.3.1.2. Malicious gestures or actions;
 - 3.3.1.3. Behaviour that frightens, belittles or degrades;
 - 3.3.1.4. Persistent unjustified threats of discipline or sanctions;
 - 3.3.1.5. Constant unjustified criticism;
 - 3.3.1.6. Yelling, shouting;
 - 3.3.1.7. Damaging or interfering with another's property or equipment
 - 3.3.1.8. Objectionable remarks, innuendos or taunting about a person in relation to his or her racial or ethnic background, colour, place of birth or any other prohibited grounds of discrimination;
 - 3.3.1.9. Refusal to converse or work cooperatively with an employee because of racial or ethnic background or any of the other prohibited grounds of discrimination;

- 3.3.1.10. Insulting gestures, graphics or jokes based on a person's sex or sexual orientation or any prohibited grounds that cause embarrassment or discomfort
- 3.3.2. Harassment does not include:
 - 3.3.2.1. Interpersonal conflict or disagreement
 - 3.3.2.2. The proper exercise of performance evaluation, appropriate managerial direction, delegation, performance management or attendance management or
 - 3.3.2.3. The exercise or expression protected by Academic Freedom
- 3.4. **Sexual Harassment** means anyone engaging in a course of vexatious comment or conduct because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome and/or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant, or deny a benefit or advancement to the individual and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.
 - 3.4.1. Sexual harassment includes, but is not limited to, sexual advances, requests for sexual favours or other verbal or physical conduct of a sexual nature when:
 - 3.4.1.1. Submission to such conduct is made either implicitly or explicitly a condition of employment;
 - 3.4.1.2. Submission to or rejection of such conduct is used as a basis for any employment or assessment decisions such as promotions, salaries, performance evaluations, separation affecting the employee or grade submissions for students;
 - 3.4.1.3. Such conduct has the purpose or the effect of unreasonably interfering with the employee's or student's work performance or creating an intimidating, hostile or offensive work environment.
 - 3.4.2. Examples of sexual harassment would include, but are not limited to:
 - 3.4.2.1. Requests for sexual favours;
 - 3.4.2.2. Unwelcome remarks, e-mails, voicemails, written materials, questions, jokes, innuendo or taunting, about a person's body or sex, including sexist comments or sexual invitations.
 - 3.4.2.3. Verbal abuse or threats of a sexual nature;
 - 3.4.2.4. Leering, staring or making sexual gestures;
 - 3.4.2.5. Display of pornographic or other sexual materials in the form of degrading pictures, graffiti, cartoons, sayings or email;
 - 3.4.2.6. Unwanted physical contact such as touching, patting, pinching or hugging;
 - 3.4.2.7. Intimidation, threat or actual physical assault of a sexual nature;
 - 3.4.2.8. Sexual advances with actual or implied work related consequences.
 - 3.4.3. The definition of sexual harassment is not intended to inhibit bona fide academic discussion, interactions, or relationships based on mutual free consent or normal social conduct between individuals.
- 3.5. **Personal Harassment** means conduct and/or behaviours, which create an intimidating, demeaning or hostile working or academic environment whether or

not it is based on the prohibited grounds defined in the Human Rights Code. For the purposes of this Policy, Personal Harassment includes Workplace Harassment as defined under the Occupational Health and Safety Act as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably known to be unwelcome.

- 3.6. **The Workplace** for the purposes of this policy, the workplace includes, but is not limited to, all King's facilities and worksites, including vehicles, cafeterias, training sessions, business travel, conferences and all locations where the business of the organization is conducted. The workplace also includes all King's sanctioned social functions or business performed at any location away from King's, whether performed during or outside of normal working hours.

4. Policy

- 4.1. King's is committed to providing a working and learning environment that allows for full and free participation of all members of the community. Discrimination against and/or harassment of individuals, whether as members of any recognizable group or otherwise, undermine these objectives and violate the fundamental rights, personal dignity and integrity of groups of individuals.
- 4.2. This policy applies to all members of the King's community in their interaction with other members of the King's community. The King's community includes employees, students, volunteers and other individuals who work or study at King's.
- 4.3. All members of King's share a responsibility to provide and maintain an environment free of discrimination and harassment.
- 4.4. For the purpose of determining what limitations may reasonably be imposed in good faith to meet the objective employment or academic requirements, every individual is entitled to individual consideration.
- 4.5. This Policy shall not infringe upon the implementation of special programs designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity.
- 4.6. Harassment and discrimination constitute serious offences that may be cause for disciplinary sanctions by King's.
- 4.7. Individuals may seek assistance from the Human Rights Tribunal of Ontario even when taking steps under this Policy. If the circumstances giving rise to a complaint under this policy independently give rise to proceedings before Human Rights Tribunal of Ontario or to proceedings in the courts or to the laying of a criminal charge, then any action under this policy may be suspended until such proceedings are concluded.

- 4.8. Any reprisals, retaliation or threats of reprisals or retaliation for pursuing rights under this policy, for having participated in its procedures, or for acting in any role under this policy and its procedures are prohibited.
- 4.9. King's may take disciplinary action against those who make allegations of harassment or discrimination which are reckless, malicious or not in good faith.
- 4.10. King's shall not be restricted to fulfilling under the Human Rights Code, Occupational Health and Safety Act, or other applicable legislation, or where the safety of individuals is threatened or compromised.

5. Relationship to other policies

- 5.1. Some behaviours that are defined as harassment under this policy can also constitute workplace violence and, as such, King's Workplace Violence Policy may be applicable in the circumstances.

6. Responsibilities

- 6.1. King's and all members of the King's community share responsibility for ensuring and promoting a safe and respectful working and learning environment that is free from discrimination and/or harassment. All members are responsible for communicating to the King's community that harassment and discrimination are not permitted and will not be condoned.
- 6.2. King's shall:
 - 6.2.1 Provide Academic and non-academic employees of King's with appropriate training regarding harassment and discrimination.
 - 6.2.2 Provide supports and resources for the administration of its policies, and programs relating to discrimination and harassment including, but not limited to, this Policy.
 - 6.2.3 Ensure that two Harassment Advisors are appointed to provide education and support pursuant to this policy and procedures.
 - 6.2.4 Take proper and reasonable steps to prevent systemic discrimination, through avoiding policies and practices that may lead to adverse job or academic consequences.
- 6.3 Academic Leaders and Senior Leadership shall:
 - 6.3.1 Become familiar with and communicate King's policies regarding discrimination and harassment to academic and non-academic employees, and students within their Faculty/Department/Unit.
 - 6.3.2 Participate in education relating to discrimination and harassment, specifically related to administrative duties and accountabilities.
 - 6.3.3 Identify training needs and encourage all academic and non-academic employees, and students to attend relevant training related to the University's policies and programs relating to discrimination and harassment.

- 6.3.4 Report any incident(s) which may be related to discrimination and harassment immediately to the Director of Human Resources or as otherwise described herein.
 - 6.3.5 Keep detailed records of any instances of discrimination and harassment and forward to the Director of Human Resources as required.
- 6.4 King's Community Members shall:
- 6.4.1 Cooperate with King's in its exercise of the duties imposed by the Policy and these procedures (e.g., any efforts to resolve and/or investigate matters relating to discrimination and harassment).
 - 6.4.2 Discuss any instances of discrimination and harassment with a Harassment Advisor and/or Director of Human Resources in accordance with the applicable procedure.
 - 6.4.3 Participate in training as required.
- 6.5 The Harassment Advisor shall:
- 6.5.1 Increase awareness of harassment and discrimination issues through educational and training programs developed to address the needs of all King's constituencies;
 - 6.5.2 Receive anyone who brings to this Service an allegation of breach of this policy;
 - 6.5.3 Counsel on a confidential basis the complainants and the respondents, explaining the options available under this Policy, and outlining the support services available to them;
 - 6.5.4 Conduct informal mediation, with the consent of the complainant and the respondent;
 - 6.5.5 Arrange for the appointment of a mediator for formal mediation, with the consent of the complainant and the respondent;
 - 6.5.6 Maintain in absolute confidence records relating to allegations of breaches of this policy except where disclosure is required by this policy or the law;
 - 6.5.7 Avoid conflict of interest;
 - 6.5.8 Ensure that a Harassment Advisor is available to assist the Complainant and the Respondent; and
 - 6.5.9 Report annually to the President. Any subsequent published report will contain statistics on matters relating to allegations of breaches of this Policy while maintaining anonymity and confidentiality. All complainants will be advised that all cases will be reported in the aggregate.

7. Complaint Procedure

- 7.1. Upon becoming aware of any incident, which may fall under the definition of harassment or discrimination, nothing precludes King's from deciding that it may be necessary to take appropriate action (at an informal or formal level), even if the complainant does not wish the matter to proceed. In the event that King's decides to proceed, the complainant will be notified.
- 7.2. Before proceeding with any action, however, the President/Director of Human Resources (or designate) shall first meet with the complainant to discuss the

alleged harassment or discrimination incident to ensure that the complainant is aware of the Harassment and Discrimination Policy and role of the Harassment Advisor, and to discuss actions to address the incident through informal or formal complaint procedures. As stated above, King's retains authority to take action, even if the complainant does not wish the matter to proceed.

7.3. Several options are available to employees or students who believe they have been subjected to harassment or discrimination at King's. Nothing precludes the complainant from proceeding to the Ontario Human Rights Commission at any time during any of the following processes.

7.4. Direct Action

7.4.1. Academic or non-academic employees or students who believe they have been harassed or have been the subject of discrimination are encouraged to raise the concern directly with the individual responsible for the alleged misconduct, make it known that the conduct or comment is unwelcome and that they wish it to stop immediately. Academic or non-academic employees or students are further encouraged to keep a detailed record of the alleged harassment or discrimination, including dates, times, locations and witnesses.

7.4.2. Academic and non-academic employees or students may choose not to approach the individual responsible for the alleged misconduct directly if they feel this may be difficult or inappropriate. In these situations, complainants are encouraged to take action as outlined in 7.5 Informal Complaint.

7.5. Informal Complaint

7.5.1. Members of the King's community who believe they have been harassed or have been the subject of discrimination and have unsuccessfully tried to deal directly with the individual responsible for the alleged misconduct or feel that a direct approach is inappropriate, may deal with the complaint on an informal basis. In this instance, the complainant is encouraged to contact a Harassment Advisor. For information on the appointment of Harassment Advisors, please see Appendix A.

7.5.2. The complainant is able to seek support of the Harassment Advisor, who may help determine the desired course of action and review the options that are available to them.

7.5.3. The harassment advisor or any third party appointed to mediate the complaint will not have the authority to conduct an investigation or other formal fact finding process.

7.5.4. If the concern or complaint is resolved through a written agreement, the only written record of the resolution will be given to the complainant and the respondent, and a copy placed in the individual's file.

7.5.5. If, after the Informal Complaint process, the complaint remains unresolved, the complainant may refer the complaint to the Formal Complaint process.

7.6. Mediation

7.6.1. All complainants shall be encouraged by King's personnel to explore the possibility of mediation before filing a formal complaint. As mediation is

voluntary, the complainant and/or the respondent may choose not to participate.

- 7.6.2. With the agreement of both the complainant and the respondent, the Harassment Advisors or another mutually acceptable neutral third party will informally mediate the allegation at the earliest possible stage. During mediation, either party may be accompanied by a friend or colleague subject to the same confidentiality requirements as the complainant and respondent.
- 7.6.3. The Harassment Advisors will not volunteer, nor shall they be called upon by an investigator appointed under this policy to disclose details concerning the allegation or the informal mediation process.
- 7.6.4. During mediation, both parties are expected to deal with the mediator in a full, frank and honest way in the hope of resolving their differences.
- 7.6.5. The mediator will not be asked, and is not permitted, to adjudicate an allegation.
- 7.6.6. The mediator may terminate mediation at any time they feel that mediation has no reasonable prospect of resolving the dispute.
- 7.6.7. In mediating an allegation, the mediator will endeavour to work out a settlement agreement, which specifies the actions to be taken by both parties.
- 7.6.8. The mediator will report in writing to the Harassment Advisory Service, without further detail or reasons, that:
 - 7.6.8.1. the allegation has been withdrawn; or
 - 7.6.8.2. mediation has been successful, a settlement agreement signed, and the settlement agreement is being or has been implemented; or
 - 7.6.8.3. mediation has not resulted in an agreement to resolve the dispute and has been terminated; or
 - 7.6.8.4. mediation has no reasonable prospect of success and is terminated.
- 7.6.9. The mediator will not be called upon by King's to disclose any details of the allegation or of the mediation process. Nor will the mediator be called upon by any investigator appointed by King's to ascertain the facts of the case.
- 7.6.10. Where mediation has resulted in an agreement, the settlement agreement and all files or records relating to the allegation, will be retained by the Harassment Advisory Service for one year, unless otherwise stipulated by the agreement.
- 7.6.11. Where mediation fails and no formal complaint is filed, a limited record of the course of action taken by King's will be retained.

7.7. Formal Complaint

- 7.7.1. Academic and non-academic employees or students may choose to file a Formal Complaint either directly, or after an Informal Complaint is considered.
- 7.7.2. A Formal Complaint must be submitted in writing to the President except in cases where the complainant and the respondent are students in which case the complaint will be submitted to the Dean of Students. These people are known as the designated authorities. Complaints with respect to President will be directed to the Secretary of the Board.
- 7.7.3. The written complaint should include:
 - 7.7.3.1. The name(s) of the complainant(s)
 - 7.7.3.2. The name(s) of the respondent(s)

- 7.7.3.3. Date, time and place of the incident(s); and
 - 7.7.3.4. Any relevant information or evidence to support the allegation including names of witnesses;
 - 7.7.3.5. Sufficient information for the Respondent(s) to be able to respond.
 - 7.7.4. Upon receipt of the complaint, and prior to commencing any investigatory action the Director of Human Resources (or designate) shall determine whether the complaint may go forward based on the following criteria:
 - 7.7.4.1. The matter is within the jurisdiction of King's, i.e., involving employees and /or students of King's.
 - 7.7.4.2. The allegations are within the scope of this policy; and
 - 7.7.4.3. The allegation contains sufficient information for the Respondent(s) to be able to respond.
 - 7.7.5. Where the Director of Human Resources (or designate), determines that the complaint may go forward, they shall:
 - 7.7.5.1. Determine which interim measures, if any, are required during the complaint and investigation process.
 - 7.7.5.2. Appoint an internal or external investigator to prepare a fact-finding report in which the investigator shall review the complaint and determine whether discrimination and/or harassment has been established. In appointing an investigator the Director of Human Resources (or designate) is responsible for ensuring that the investigator has relevant experience in such investigations and does not have a conflict of interest in the matter under review. The fact-finding report is provided to the Director of Human Resources (or designate).
- 7.8. Investigation of a Formal Complaint:
- 7.8.1. The designated authority will advise the Complainant and the Respondent if an investigation has been initiated and the name(s) of the internal or external investigator(s). Within ten (10) working days of the investigator's appointment, the Respondent shall be provided, by registered mail or equivalent, a copy of the complaint, including any and all allegations.
 - 7.8.2. The Respondent shall be provided the opportunity to respond to the complaint within ten (10) working days of receipt. Any written reply shall be provided to the Complainant. The Complainant and Respondent will be required to participate in the investigation. Where the Complainant(s) fail(s) to participate in an investigation, and any subsequent findings, may proceed in absentia.
 - 7.8.3. Fact Finding:
 - 7.8.3.1. The investigator(s) will conduct interviews with all relevant parties including any witnesses, and review any relevant material to clarify the details of the reported incident(s). Both the complainant and respondent will be given full opportunity to present their cases.
 - 7.8.4. Report of Findings:
 - 7.8.4.1. The investigator(s) will, after completing the investigation, produce a final written report which will be forwarded to the designated authority.

- 7.8.4.2. This report will include the investigator's findings of fact, and his or her opinion on whether harassment or discrimination occurred.
- 7.8.4.3. The investigator(s) will normally complete his or her report within 20 working days of being appointed.
- 7.8.4.4. The complainant and respondent will be given the opportunity to review the report.

8. Record Of The Action

- 8.1. Where a complaint of harassment or discrimination is substantiated, there will be a formal record of the action taken on the respondent(s)'s personnel file.
- 8.2. All records retained by the designated authority shall be kept in a secured file by the Human Resources department until the case is closed. After the case is closed the records shall be retained in confidence by the President for a period of seven years.

9. Free From Retaliation

- 9.1. All employees and students have a right to be free of retaliation or threat of retaliation as a result of being involved in a complaint of harassment or discrimination. Retaliation will be deemed to be harassment and dealt with in accordance with this policy.
- 9.2. If, as a result of an investigation, it is determined that an otherwise unfounded complaint was intended to be malicious and/or vexatious, it will be considered a form of harassment and will be dealt with in accordance with the sanctions applicable to the complainant as defined above and/or the relevant conditions of appointment or employment document.

10. Respondent Recourse:

- 10.1. Employees may grieve the decision of the designated authority following the appropriate procedures outlined in the relevant Conditions of Appointment or Conditions of Employment document. Students may appeal the decision of the designated authority following the appropriate procedures as outlined in the Code of Student Conduct.

11. Confidentiality

- 11.1. King's understands that it may be difficult to come forward with a complaint of harassment or discrimination and recognizes that a complainant and/or a respondent will wish to keep the matter confidential. To protect the interests of the complainant, the person complained against and any others who may report incidents of harassment and discrimination, confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances.
- 11.2. All records of complaints, including minutes of meetings, interviews, results of investigations and other relevant material will be kept confidential by the designated authority except to the extent that disclosure is necessary to conduct

an investigation and to take remedial and/or disciplinary action in relation to the complaint.

11.3. The complainant will be informed that under the terms of this policy, the process can guarantee only limited confidentiality.

12. Appendix A

12.1. Appointment of harassment advisor

12.1.1. Harassment Advisors will be appointed for a four-year term by the President, subject to the approval of the Board of Directors, in consultation with the Harassment Advisory Service

12.1.2. The appointments will include at least one female, one male and/or one non-binary person.

12.1.3. Training and development opportunities for the Advisors will be provided.