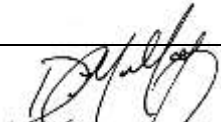


POLICY TITLE: Harassment and Discrimination	POLICY SECTION: Human Resources	POLICY NO: 2.5
RELATED BOARD POLICY:		
RELEVANT LEGISLATION:	Employment Standards Act Occupational Health and Safety Act	
PRIMARY APPROVER:	President	
SECONDARY APPROVER:	Director of Human Resources	
RESPONSIBLE AUTHORITY:	Human Resources	
DATE APPROVED:	September 27, 1995	
DATE(S) REVIEWED / REVISED:	May 2024	
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.
 - 3.4.2.9. 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 or 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 these 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 the Human Resources department 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 King'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 President and/or 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 President and/or Director of Human Resources as required.

6.4 Human Resources shall:

- 6.4.1 Provide advice and support to leadership regarding appropriate informal conflict resolution measures.
- 6.4.2 Refer conflicts back to the leader for resolution, when appropriate.
- 6.4.3 Receive informal complaints and requests for alternate resolutions.
- 6.4.4 Receive formal written complaints via the complaint form and determine the appropriate course of action under this policy.
- 6.4.5 Advise parties of an investigation, and inform King's members that they may be accompanied by a Union/Association representative during the investigation.
- 6.4.6 Ensure information obtained about the incident or individuals involved will not be disclosed unless the disclosure is necessary for investigating, taking corrective action or required by law.
- 6.4.7 Oversee internal investigations and recommend use of third-party investigators.
- 6.4.8 Recommend remedial or disciplinary actions following the investigation.
- 6.4.9 Communicate with the parties involved regarding information about the investigation findings and outcomes including any remedial or disciplinary action taken.
- 6.4.10 Provide training to workers, leaders and new employees on this policy.

- 6.4.11 Ensure this policy is reviewed by the JHSC annually.
- 6.4.12 Ensure this policy continues to meet legislation as prescribed under the Occupational Health and Safety Act.

6.5 King's Community Members shall:

- 6.5.1 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).
- 6.5.2 Act if you or someone you know is being harassed.
- 6.5.3 If safe to do so, ask the person to stop.
- 6.5.4 Report it and ask a leader or Human Resources to take steps to stop the behaviour.
- 6.5.5 Treat others with dignity and respect.
- 6.5.6 Discuss any instances of discrimination and harassment with an HR Advisor or the Director of Human Resources in accordance with the applicable procedure.
- 6.5.7 Complete the Discrimination and Harassment complaint form and submit it to the President for circumstances where confronting the individual is not appropriate.
- 6.5.8 Participate fully in investigations initiated by King's.
- 6.5.9 Participate in training as required.
- 6.5.10 Strictly maintain the confidentiality and privacy rights of individuals involved in discrimination or harassment complaints to the fullest extent possible in the circumstances.

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 to discuss actions to address the incident through informal or formal complaint procedures. As stated above, King's retains authority to act, 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 Tribunal 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 or 7.6 of this policy.

7.5. Informal Complaint – Request for Alternate Resolution

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 request an Alternate Resolution. In this instance the complainant is to contact an HR Advisor.

7.5.2. Alternate resolution refers, generally, to options other than a complaint process. It is a problem-solving approach which has the goal of achieving a resolution satisfactory to all parties. Alternate resolution is generally not appropriate where one of the parties desires a formal procedure which may result in a decision imposing corrective, preventive, remedial or disciplinary consequences.

7.5.3. Each situation is unique and it is necessary for the HR Advisor, as the case may be, to have flexibility in determining the most appropriate options to attempt to reach a resolution. In order for the alternate resolution to proceed, all parties must agree to participate in the process. Some examples of alternate resolution include:

7.5.3.1. Facilitated discussion

7.5.3.2. Mediation

7.5.3.3. Education

7.5.4. The HR Advisor, as the case may be, retains the discretion to approve a request for alternate resolution based on whether:

7.5.4.1. The request is made within 6 months of the date of the last incident

7.5.4.2. The matter is within the jurisdiction of King's, i.e., involves members of the King's community; and the issue to be addressed through alternate

resolution are within the scope of the policy, i.e., alleging discrimination or harassment.

7.5.5. In addition, there may arise circumstances where, in the opinion of the HR Advisor, as the case may be, alternate resolution is not a viable option. Such circumstances include, but are not limited to, situations where:

7.5.5.1. There is a safety risk to either or both of the parties.

7.5.5.2. There is significant power imbalance between the parties

7.5.5.3. The remedy sought by one party is of a monetary or punitive nature;
or

7.5.5.4. The prospects of resolution appear to be unlikely.

7.5.6. The HR Advisor, as the case may be, may, at any time, refuse to continue alternate resolution proceedings based on information or concerns related to the factors outlined in 7.5.3 and 7.5.4 of this section. Where alternate resolution is refused or terminated, the HR Advisor, as the case may be, shall provide reasons for their decision, if requested.

7.5.7. If alternate resolution proceedings do not result in settlement of all issues, the HR Advisor, as the case may be, shall advise all involved parties of the option to file a Formal Complaint and Request for Investigation.

7.5.8. If a resolution consistent with the terms of the Policy and any applicable legislation (e.g., the Ontario Human Rights Code or the Occupational Health and Safety Act) is achieved, all parties shall sign a statement of the terms of resolution.

7.5.9. A copy of the terms of resolution shall be retained in the files of the Human Resources Department, as the case may be, for a period of 5 years and shall not be placed in official student or employee files. Files will be destroyed, in a confidential manner, after the five-year period.

7.6. Formal Complaint – Request for Investigation

7.6.1. Academic and non-academic employees or students may choose to file a Formal Complaint either directly, or after an Informal Complaint is considered.

7.6.2. 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 the President will be directed to the Secretary of the Board.

7.6.3. The formal written complaint must be filed using the Harassment and Discrimination Formal Complaint form. This form includes the following:

7.6.3.1. The name(s) of the complainant(s)

7.6.3.2. The name(s) of the respondent(s)

7.6.3.3. Date, time and place of the incident(s); and

7.6.3.4. Any relevant information or evidence to support the allegation including names of witnesses;

7.6.3.5. Sufficient information for the Respondent(s) to be able to respond.

- 7.6.4. 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:
- 7.6.4.1. The matter is within the jurisdiction of King's, i.e., involving employees and /or students of King's.
 - 7.6.4.2. The allegations are within the scope of this policy; and
 - 7.6.4.3. The allegation contains sufficient information for the Respondent(s) to be able to respond.
- 7.6.5. Where the Director of Human Resources (or designate), determines that the complaint may go forward, they shall:
- 7.6.5.1. Determine which interim measures, if any, are required during the complaint and investigation process.
 - 7.6.5.2. 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).

7.7. Investigation of a Formal Complaint:

- 7.7.1. 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).
- 7.7.2. After the investigator has been appointed, the Respondent shall be provided, a summary of the complaint, including any and all allegations, in advance of being interviewed by the investigator. The Respondent shall be provided the opportunity to respond to the complaint. Any written reply shall be provided to the Complainant.
- 7.7.3. The Complainant and Respondent will be required to participate in the investigation. Where the Complainant(s) fail(s) to participate in an investigation, the complaint may be deemed withdrawn. Where the Respondent fails to participate in the investigation, and any subsequent findings, may proceed in absentia.
- 7.7.4. Individuals contacted by King's during the investigation shall be informed of the confidentiality requirement. A request with respect to participation in the investigatory process shall be in accordance with any applicable collective agreement or employment contract.
- 7.7.5. Where appropriate, discipline will be in accordance with the appropriate collective or employee agreement or the Student Code of Conduct.
- 7.7.6. An individual who has allegedly experienced discrimination or harassment, and the individual alleged to have engaged in discrimination or harassment, will be informed of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation, within 10 calendar days of the investigation being concluded.

8. Retention of Files

- 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 Director of Human Resources for a period of seven years.

9. Free from Retaliation

- 9.1. All employees, witnesses 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. Confidentiality

- 10.1. 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.
- 10.2. 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.
- 10.3. Any information obtained by King's about the incident or complaint of discrimination or harassment including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.
- 10.4. Individuals and King's shall maintain the confidentiality of the investigative process and its findings until the imposition of discipline, if any, unless King's has grounds to believe such confidentiality may put a person at risk of significant harm.